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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1890.

No. 313.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

JOHN T. CHIDESTER AND LOGAN H. ROOTS.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS.

FILED DECEMBER 23, 1887.

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a UNITED STATES OF AMERICA, ss:

The President of the United States of America, to the honorable the judge of the circuit court of the United States for the eastern district of Arkansas, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court before you, between The United States, plaintiff, and John T. Chidester and Logan H. Roots, defendants, a manifest error hath happened, to the great damage of the said United States, as by her complaint appears;

We, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid, in this behalf do command you if judgment be therein given that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that the records and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and custom of the United States ought to be done.

Witness the Honorable Morrison R. Waite, Chief-Justice of the Supreme Court of the United, States this 8th day of December, in the year of our Lord one thousand eight hundred and eighty-seven and of the Independence of the United States the one hundred and twelfth.

[SEAL.] RALPH L. GOODRICH,
Clerk of the Circuit Court of the United States of America for the Eastern District of Arkansas.

Allowed by

HENRY C. CALDWELL,
U. S. Dist. Judge.

b The execution of the foregoing writ of error appears by the schedule hereto attached.

I acknowledge service of the within writ of error for the defendant, John T. Chidester, Dec. 8th, 1887.

JOHN MCCLURE,
For JNO. T. CHIDESTER.

I acknowledge service of the within writ of error, Dec. 8, 1887.
LOGAN H. ROOTS.

1 Be it remembered, that on the 22nd day of December, 1885, came into the office of the clerk of the circuit court of the United States for the eastern district of Arkansas, the United States, by Joseph W. House, esq., district attorney, and J. E. Williams, esq., special attorney in this case, and filed therein a complaint at law against John T. Chi-

dester and Logan H. Roots, which complaint is in the words and figures following, to wit:

2 In the United States circuit court, eastern district of Arkansas.

UNITED STATES OF AMERICA, PLAINTIFF,
v.
JOHN T. CHIDESTER AND LOGAN H. ROOTS, defendants.

Complaint at law.

The United States of America, by its attorney, J. W. House, esq., complains of the defendants, John T. Chidester and Logan A. Roots, and for cause of action says:

I.

That on the 20th day of March, 1878, the said defendant, John T. Chidester, as principal, and John D. Adams, F. C. Taylor, George W. McDiarmid, James B. Price, and Thomas B. Price, as sureties, entered into a written contract with the plaintiff, acting in that behalf through and by D. M. Key, Postmaster-General, on which said contract the said defendant, John T. Chidester, undertook and agreed for and in consideration of the sum of one hundred and thirty-four thousand dollars ($134,000) per year to carry the mail of the United States upon the route then known as number 31,454, being the route from Fort Worth in the State of Texas, by way of certain intermediate points specially enumerated in said contract, to Yuma in the Territory of Arizona, and back seven times a week, for and during the term of four years, beginning on the first day of July, 1878, and ending on the 30th day of June, 1882.

3 That the said contract was subject to and contained written thereon certain conditions, stipulations, and agreements, all of which are contained in a copy of said contract hereto annexed, marked Exhibit "A," and made a part hereof. A map of said route number 31454 is hereto annexed and marked Exhibit "B." That the said contract after being duly executed by the defendant, John T. Chidester, and by the sureties above named, and duly accepted and approved by the plaintiff through and by said D. M. Key, Postmaster-General as aforesaid, was and now is on file in the Post-Office Department.

That on the 28th day of May, 1878, the said defendant, John T. Chidester, by a certain power of attorney duly executed, authorized and empowered the defendant, Logan H. Roots, in his, the said Chidester's name, place, and stead to collect from the Auditor of the Treasury for the Post-Office Department any and all pay that might become due from the said Post-Office Department for carrying the mails on the said route number 31454, and giving said Logan H. Roots certain other powers therein specially enumerated, all of which will fully appear from a copy of said power of attorney hereto annexed marked Exhibit "E," and made a part hereof.

And said power of attorney was thereafter filed in said Post-Office Department.

II.

That for the purpose of expediting the service of carrying the United States mails between Fort Worth and Yuma by way of the intermediate places set forth and mentioned in said contract, the Postmaster-General did by a certain order issued on the 5th day of August, 1878, agree and consent with said defendant, John T. Chidester, to expedite said mail service by shortening the schedule of departures and arrivals upon said route from the said 15th day of August, 1878.

That in pursuance of the order so issued by the said Postmaster-General the running time upon said route was reduced from 17 days to 13 days, and an additional sum was allowed for such expedition or increase
4 of speed of one hundred and sixty-four thousand dollars per annum; said allowance being made in supposed accordance with the provisions of section 3961 of the Revised Statutes of the United States.

III.

That the said defendant, John T. Chidester, consented to the terms and conditions set forth and mentioned in the said order relative to the expedition of the said mail service on the line of said route, as hereinbefore mentioned, and by reason of said agreement and consent to the terms and conditions of said order on the part of the said Chidester the aforesaid contract executed on the 20th day of March, 1878, was and became amended, altered, and changed, and the same so amended, altered, and changed was accepted by the said defendants.

IV.

That the said defendants, John T. Chidester and Logan H. Roots, by means of certain false and fraudulend representations set forth in a certain sworn statement relative to the expediting of the service of carrying the mail of the United States on the route aforesaid and made and presented to the Postmaster-General on or about the 3rd day of August, 1878, did procure the said order issued on the 5th day of August, 1878, by the said Postmaster-General, thereby amending, altering, and changing said original contract, as hereinbefore set forth.

That the said defendant, John T. Chidester, in said sworn statement so made by him and presented to the Postmaster-General, falsely stated and represented that to perform the service of carrying the mail upon said route seven times a week on a schedule of seventeen days required ninety-two (92) carriers and three hundred and seventy-eight (378) animals, and that to perform said service on a schedule of thirteen days would require one hundred and eighty (180) carriers and nine hundred and
5 eighty-six (986) animals.

That the said order for additional allowance issued August 5th, 1878, was made by reason and upon the basis of the said statement made and sworn to on the 3rd day of August, 1878, by the defendant, John T. Chidester, which said statement was presented by or on behalf of both the said defendants to the Postmaster-General, and a copy of which is hereto annexed, marked Exhibit "C," and made a part hereof.

V.

That the said representations made and presented to the Postmaster-General, as aforesaid, were wholly false and fraudulent, in this, that it was therein alleged that to perform the service of carrying the mail on said roste No. 31454 upon the then existing schedule of 17 days it required 92 carriers and 378 animals, and that upon the proposed expected schedule it would require 180 carriers and 986 animals, thereby making it to appear to the Postmaster-General that the said proposed change of schedule would involve and render necessary an increase in the number of carriers and animals required to perform said service on said route of 88 carriers and 608 animals over and above the number of carriers and animals required upon the original schedule, wheich said representations were false, as said defendants then and there well knew, and were designed to mislead, and did mislead, the Postmaster-General, whereas in truth and in fact the increase in the number of carriers and animals required or used or rendered necessary in performing the said mail service on said route upon the said expected schedule did not exceed 55 carriers and 313 animals.

That by means of the said false statements and representations made and presented to the Postmaster-General, as aforesaid, and by means of false and fraudulent vouchers presented to the Post-Office Department, John T. Chidester and Logan H. Roots were paid by and received from this plaintiff a larger sum of money than they were lawfully entitled to receive for the performance of said mail service under said contract as amended, altered, and changed, as hereinbefore set forth.

6 That the sums so received by the said defendants from this plaintiff by means of said false statements and representations contained in said sworn statement and said false and fraudulent vouchers presented to the Post-Office Department for said mail service performed during the term of said contract, to-wit, between the 1st day of July, 1878, and the 30th day of June, 1882, amounted in the aggregate to the sum of one hundred and seventy-four thousand and twenty dollars and forty-one cents ($174,020.41), which said sum of money was paid by the plaintiff's officers to the defendants in mistake of fact, and was received by the said defendants contrary to the provisions of section 3961 of the Revised Statutes of the United States.

Said payments are more fully and at length set out in the statements of account hereto annexed marked Exhibit "D," and made a part hereof.

VI.

That by reason of the premises hereinbefore mentioned plaintiff has sustained damages amounting to one hundred and seventy-four thousand and twenty dollars and forty-one cents ($174,020.41), being the sum of money so paid to said defendants, John T. Chidester and Logan H. Roots, by means of the false and fraudulent representations made in the said sworn statement and the said false and fraudulent vouchers made and presented to the Post-Office Department and in excess of the services actually performed by them or either of them. That the said sum has been demanded by the plaintiff from said defendants, but the said defendants

have utterly failed, neglected, and refused, and still do fail, neglect, and refuse to pay the same or any part thereof.

2nd count. And for a further cause of action, the plaintiff shows that the said defendant, Logan H. Roots, acting under and by virtue of the power of attorney hereinbefore mentioned, and a copy of which is hereto annexed, marked Exhibit "E," did collect and receive from the plaintiff's officers all moneys paid by the said officers for and on account of mail service performed and alleged to have been performed under the contract hereinbefore mentioned as amended, altered, and changed by the order of the Postmaster-General aforesaid during the contract term aforesaid. That a large part of the moneys so paid to the said Logan H. Roots as attorney and agent for the said John T. Chidester, to-wit, the sum of one hundred and seventy-four thousand and twenty dollars and forty-one cents ($174,020.41) was paid from the treasury of the plaintiff aforesaid in mestake of fact and in violation of the provisions of section 3961 of the Revised Statutes of the United States, as hereinbefore fully set forth.

7

And plaintiff further avers and charges that the said sum of money so paid to the said Logan H. Roots was received and retained by him and that he, the said Roots, has never paid over the same, nor any part thereof, to the said Chidester, and that he, the said Roots, still retains the custody and possession thereof.

3rd count. And for a further cause of action plaintiff says that the said defendant, Logan H. Roots, acting under and by virtue of the power of attorney hereinbefore mentioned, and a copy of which is hereto annexed, marked "Exhibit E," did collect and receive from the plaintiff's officers all moneys paid by the said officers for and on account of mail service performed and alleged to have been performed under the contract hereinbefore mentioned as amended, altered, and changed by the order of the Postmaster-General aforesaid during the contract time aforesaid. That a large part of the money so paid to the said Logan H. Roots as attorney and agent for the said John T. Chidester, to wit, the sum of one hundred and seventy-four thousand and twenty dollars and forty-one cents ($174,020.41), was paid from plaintiff's Treasury by the officers aforesaid by reason and in consequence of the misrepresentations of fact concerning the increase in the number of carriers and animals required and rendered necessary by the order of the Postmaster-General, exhibiting the schedule upon the said mail route No. 31454 as hereinbefore fully set forth. That the said Logan H. Roots well knew that said misrepresentations had been made to the Postmaster-General whereby the said Postmaster-General was induced to make the said order, he, the said Roots, having and participated in securing said order and in deceiving and misleading the Postmaster-General as aforesaid.

8

4th count. And for a further cause of action the plaintiff says that the payments hereinbefore referred to, apparently due to the said John T. Chidester by reason of services alleged to have been performed from time to time under said contract as amended, altered, and changed in the manner hereinbefore set forth, were made by the plaintiff's officers to the said Logan H. Roots, he, the said Roots, representing himself to be the duly authorized attorney and agent of the said Chidester; but the plaintiff is informed and believes, and so charges the fact to be, that said Roots was the

agent of said Chidester in form only but not in fact; that in truth and in fact the said Roots was the principal, and that he collected and received the said moneys, not for the said Chidester, but for his own use and benefit, and that the said sum of one hundred and seventy-four thousand and twenty dollars and forty-one cents ($174,020.41) paid by the plaintiff's officers in mistake of fact and in violation of law as hereinbefore set forth was received and collected by the said Roots for his own use and benefit.

5th count. And for a further cause of action the plaintiff says that the said defendants, John T. Chidester and Logan H. Roots, on the 26th day of July, 1882, were indebted to the plaintiff in the sum of one hundred and seventy-four thousand and twenty dollars and forty-one cents ($174,020.41) for so much money by the said defendants before that time had and received to and for the use of the said plaintiff, which said sum of money the said plaintiff avers was then due and payable; yet the said defendants, although often requested to do so, have not paid the same nor any part thereof.

Wherefore plaintiff prays judgment against the defendants, John T. Chidester and Logan H. Roots, for the sum of one hundred and
9 seventy four thousand and twenty dollars and forty-one cents ($174,020.41), with interest thereon at the rate of six per cent. per annum from the 26th day of July, 1882, together with the costs of this suit.

J. W. HOUSE,
United States Dist. Atty. E. D. Arkansas.

(Endorsed:) Filed and writ issued Dec. 22nd 1885. Ralph L. Goodrich, clerk. By W. P. Feild, D. C.

10 United States of America, eastern district of Arkansas.

Be it remembered that at a circuit court of the United States of America in and for the eastern district of Arkansas, begun and holden on Monday, the 25th day of October, anno Domini one thousand eight hundred and eighty-six, at the United States court-room in the city of Little Rock, Arkansas, the honorable Henry C. Caldwell, district judge, presiding and holding said court, the following proceedings were had, to wit, on December 18th, 1886:

UNITED STATES
v.
JOHN T. CHIDESTER AND LOGAN H. ROOTSS. } 4210. Duces tecum.

Comes the United States, by Joseph W. House, esq., district attorney, and J. E. Williams, assistant attorney, and files herein a petition, a subpœna "duces tecum," directed to John T. Chidester and Logan H. Roots, and each of them. And the court being well advised in the premises, doth order that the clerk of this court do issue forthwith a subpœna duces tecum in this cause, directed to each of the defendants, John T. Chidester and Logan H. Roots, returnable January 10th, 1887, "and to bring with them a certain contract executed by John T. Chidester to Logan H. Roots, or to Logan H. Roots and others, conveying postal route number 31454, from Fort Worth, Texas, to Yuma, Arizona, and all the correspondence, documents, and other papers pertaining to said contract."

Which motion is as follows:

11 In the circuit court of the United States, eastern district of Arkansas.

UNITED STATES
v.
JOHN T. CHIDESTER AND LOGAN H. ROOTS.

On this day comes the plaintiff, by her attorneys, Joseph W. House and J. E. Williams, and state that the defendants have in their hands and possession a certain contract in writing, in which the said John T. Chidester conveyed all his interest in postal route No.——, from Fort Worth, Texas, to Yuma, Arizona, to the said Logan H. Roots or to Logan H. Roots and others, and correspondence, documents, and other papers pertaining to said postal route and the conveyance of the same as above stated, and that said contract, correspondence, documents, and other papers in the possession of the defendants, or one of them as aforesaid, are material to establish plaintiff's cause of action, and that plaintiff has no means of obtaining said evidence except through the defendants.

Wherefore plaintiff prays for a subpœna duces tecum for said defendants, and each of them, to appear before this court and produce said contract, correspondence, documents, and other papers pertaining to said route and the conveyance of the same before this court on the 10th day of January, 1887.

J. W. HOUSE,
J. E. WILLIAMS,
For Plaintiff.

(Endorsed:) Filed Dec. 18th, 1886. Ralph L. Goodrich, clerk.

12 And on December 23rd, 1886, as follows:

UNITED STATES
v.
J. T. CHIDESTER ET AL. } 4210.

Comes the United States, by Joseph W. House, esq., district attorney, and on his motion it is ordered that subpœnas issue in the above-entitled cause, directed to Col. Clark, postmaster at Tombstone, Arizona; F. T. Shepperd, Nashville, Howard County, Arkansas; and Asaph Nully, Searcy, White County, Arkansas, returnable January 10th, 1886.

* * * * * * *

And on December 29th, 1886, as follows:

UNITED STATES
v.
JOHN T. CHIDESTER ET AL. } 4210.

Come the defendants, by John McClure, esq., their attorney, and file herein their demurrer to complaint, and also separate answer of John T. Chidester and Logan H. Roots.

* * * * * * *

Which demurrer is as follows:

13 In the circuit court of the United States, eastern district of Arkansas.

UNITED STATES OF AMERICA
v.
JOHN T. CHIDESTER AND LOGAN H. ROOTS.

Demurrer.

Now comes the defendants and demur to certain causes of action in the complaint set forth, and for cause of demurrer states that the matters and things alleged and set forth in the second cause of action do not constitute a cause of action.

And for further cause of demurrer states that the matters and things alleged and set forth in the third cause of action do not constitute a cause of action.

And for further cause of demurrer states that the matters and things alleged and set forth in the fourth cause of action do not constitute a cause of action.

And for further cause of demurrer states that the matters and things alleged and set forth in the fifth cause of action do not constitute a cause of action.

JOHN MCCLURE,
For Defendants.

(Indorsed:) Filed Dec. 29th, 1886. Ralph L. Goodrich, clerk.

Which answer of Chidester is as follows:

14 In the circuit court of the United States, eastern district of Arkansas.

UNITED STATES OF AMERICA
v.
JOHN T. CHIDESTER AND LOGAN H. ROOTS.

Separate answer of John T. Chidester.

In answer to the first cause action in said complaint stated defendant states that the expedition spoken of in the second paragraph of said complaint was not procured by any representations on his part.

Defendant denies that it is true, as alleged in the fourth paragraph of said complaint, that he, "by means of false and fraudulent representations set forth in a certain sworn statement relative to the expedition of the service of carrying the mail of the United States on the route aforesaid (31454), made and presented to the Postmaster-General on or about the 3d day of August, 1878, did procure the said order issued on the 5th day of August, 1878, by the said Postmaster-General, whereby the said original contract was altered, changed, and amended."

Defendant admits that the said affidavit stated that to perform the service of carrying the mail upon said route seven times a week, on a schedule of seventeen days, required ninety-two carriers and three hundred and

seventy-eight animals, and that to perform said service on a schedule of thirteen days would require one hundred and eighty carriers and nine hundred and eighty-six animals; but defendant denies that said affidavit is false in any respect, and avers that more men and animals were necessarily employed and used than are stated in said affidavit in carrying the said mail on said thirteen days' schedule.

Defendant denies that said order for additional allowance made August 5th, 1878, was made by reason, and upon the basis of the statements in said affidavit aforesaid; on the contrary, defendant avers that at the time said order for expedition was made the Postmaster-General never
15 was said affidavit, but in making said order of August 5th, 1878, ordered said expedition upon information and evidence outside and independent of said affidavit, which said Postmaster-General had acquired through and from other parties than the defendant or said affidavit.

Defendant denies that the said affidavit is false or fraudulent in any respect, and denies that he knew it was false, and denies that the statements therein were designed to mislead the Postmaster-General, and denies that the Postmaster-General was misled or deceived thereby.

Defendant denies that he ever made or presented to the Post-Office Department, or any officer or clerk thereof, a false or fraudulent voucher by himself, in connection with Logan H. Roots, or any other person, upon which he or the said Logan H. Roots were paid or received from the United States any sum of money whatever.

And defendant denies that by reason of the statements made and contained in said affidavit the Post-Office Department paid to this defendant, or to Logan H. Roots, a larger sum of money than they were lawfully entitled to receive for the performance of said mail service under said contract after expedition was ordered as aforesaid.

Defendant denies that any of the said sums of money paid to them for the performance of said mail service under the said expedited contract was paid by the officers of the United States to the defendant, or the said Roots, in mistake of fact; and denies that the same was received by them, or either of them, contrary to the provisions of section 3961 of the Revised Statutes of the United States, and avers that the payments are not in excess of the rule by said section prescribed.

Defendant denies that the United States has sustained damage to the extent of $174,020.41, or in any other sum of money, by means of false and fraudulent representations in the sworn statements aforesaid, or by means of false and fraudulent vouchers made by defendant or the said Roots, made and presented to the Post-Office Department, in excess of the services actually performed.

16 II.

For answer to the second cause of action in said complaint stated, defendant denies that it is true, as alleged therein, that defendant is indebted to the United States in the sum of $174,020.41 or that said sum was paid from the Treasury of the United States in mistake of fact and in violation of the provisions of section 3961 of the Revised Statutes of the United States.

V.

For answer to the fifth cause of action in said complaint, defendant denies that he is indebted to the United States in the sum of $174,020.41 as for money had and received of the United States, or in any other sum of money whatever.

Wherefore defendant prays to be dismissed.

JOHN MCCLURE,
For Defendant.

(Indorsed:) Filed Dec. 29th, 1886. Ralph L. Goodrich, clerk.

Which answer of Roots is as follows:

17 In the circuit court of the United States, eastern district of Arkansas.

UNITED STATES OF AMERICA
v.
JOHN T. CHIDESTER AND LOGAN H. ROOTS.

Separate answer of Logan H. Roots.

Defendant admits the execution of the power of attorney to him of May 28th, 1878, by his co-defendant, John T. Chidester, and that the same was filed in the Post-office Department.

For answer to the fourth paragraph of the first cause of action, defendant denies that it is true, as alleged in said complaint, that "John T. Chidester and Logan H. Roots, by means of certain false and fraudulent representations set forth in a certain sworn statement relative to the expediting of the service of carrying the mail of the United States on route No. 31454, made and presented to the Postmaster-General on or about the 3rd day of August, 1878, did procure the said order issued on the 5th of August, 1878, by the said Postmaster-General."

Defendant avers that he did not sign or swear to said affidavit, or present the same to the Postmaster-General, but avers on information and belief that instead of being false and fraudulent, as alleged in said complaint, that said affidavit is true in every respect, and that in point of fact that more than one hundred and eighty carriers, and more than nine hundred and eighty-six animals were actually and necessarily employed in the carrying of said mail under said expedited contract.

Defendant denies that the order for expedition was based upon the said affidavit of his co-defendant Chidester, and denies that he presented or caused said affidavit to be presented to the Postmaster-General.

Defendant denies that said affidavit is either false or fraudulent, and denies that they misled or deceived the Postmaster-General; on the contrary defendant avers that the Postmaster-General never saw said
18 affidavit before expedition was ordered, did not rely thereon, but upon information obtained by himself from persons and sources other than this defendant and the said John T. Chidester.

Defendant denies that "by means of false statement and representations made in said affidavit, or by reason of false and fraudulent vouchers pre-

sented to the Post-Office Department, that he or his co-defendant were paid a larger sum of money than they were entitled to receive for the performance of said mail service under said contract after expedition.

And defendant denies that the officers of the United States or any of them paid to the defendant or the said Chidester the sum of $174,020.41, or any other sum of money whatever, in mistake of fact, contrary to the provisions of section 3961 of the Revised Statutes of the United States; on the contrary defendant avers that all of said payments by him received for carrying said mail under said expedited contract were made and paid from time to time, with full knowledge of how many men and animals were employed in carrying sai mail, and were at all times advised of the same by officers and agents sent there to inspect said route.

Defendant denies it is true, as alleged in the second paragraph, that he or his co-defendant was paid from the Treasury of the United States, in mistake of fact and in violation of section 3961, aforesaid, the sum of $174,020.41, or any other sum of money. In response to the allegation that this defendant has not fully settled with his co-defendant, defendant submits that such an allegation is a piece of impertinance on the part of the pleader, unless the United States can show a right to recover some sum of money of or from these defendants.

Defendant denies it is true, as alleged in the eleventh paragraph, that he knew that his co-defendant had made misrepresentations to the Postmaster-General, whereby the said Postmaster-General was induced to make said order, and denies that he aided and participated in securing said order, or in deceiving and misleading the Postmaster-General, and avers that from the time said contract was awarded down to the time the service was fully completed and the same paid for, the Postmaster-General was not
19 deceived by these defendants about anything in relation to said route, or by any one else, and that the allegations of fraud and misrepresentation in said complaint contained are manufactured out of whole cloth, the web and the woof of which is pure and unadulterated defamation.

Defendant for answer to the fourth cause of action states that it is not true as therein alleged that the plaintiff is informed and believes and so charges the fact to be that the said Roots was the agent of the said Chidester in form only, but not in fact; that in truth and fact the said Roots was the principal, and received said moneys not for the said Chidester but for his own use. Defendant denies that he was agent in form only, but states that on the 6th of December, 1878, long after said route had been expedited, his co-defendant, John T. Chidester, sublet to him all that of route No. 31454 lying west of Fort Concho and to Fort Yuma, at the rate of $275,000 per annum, and that his co-defendant retained for his own use so much of said route as was between Fort Worth and Concho, receiving therefor $24,000 per annum; that his co-defendant has been paid his proportion of mail pay, and that out of the residue defendant has paid the several persons who carried said mail between Concho and Fort Yuma. That his subcontract was placed in the Post-Office Department, and the officers and agents well knew and were advised of the relations existing between these defendants, and that all sums of money were paid to this defendant after that date as a subcontractor, save the sum of $24,000

per annum, which was paid to his co-defendant by defendant from the money drawn under the power of attorney aforesaid.

Wherefore defendant prays to be dismissed.

JOHN MCCLURE,
For Defendant.

(Indorsed:) Filed December 29th, 1886. Ralph L. Goodrich, clerk.

20 And on Jan. 7th, 1887, as follows:

UNITED STATES
v.
J. T. CHIDESTER ET AL. } 4210.

Comes the United States, by Joseph W. House and J. E. Williams, esqs., her attorneys, and come the defendants, by John McClure, esq., their attorney, and the motion to suppress certain depositions is heard, argued, and submitted to the court, and the court not being now well advised in the premises takes time to consider of its judgment herein.

* * * * * * *

And on Jan. 8th, 1887, as follows:

UNITED STATES
v.
J. T. CHIDESTER ET AL. } 4210.

Comes the United States, by Joseph W. House and J. E. Williams, esqs., her attorneys, and on their motion leave is given them to amend their complaint as they may be advised.

* * * * * * *

And on January 10th, 1887, as follows:

UNITED STATES
v.
JOHN T. CHIDESTER AND LOGAN H. ROOTS. } 4210.

21 Comes the United States, by Joseph W. House, esq., district attorney, and J. E. Williams, assistant district attorney in this case, and come the defendants, by John McClure, esq., their attorney, and the parties announcing themselves ready for trial a jury came, to wit, C. A. Walker, W. A. Jackson, Thos. J. Perryman, B. B. Ramsey, E. J. Feild, James Belcher, A. R. Carmichael, Robt. S. Kirkpatrick, Thor. J. Jones, J. N. Burnett, Charles Nauck, and Charles Middleton, being twelve good and lawful men of the district, who were duly tried, empannelled, and sworn well and truly to try the issues joined between the United States and the defendants and a true verdict give according to the law and the evidence, and thereupon the jury proceed to hear the evidence as well on the part of the United States as of the defendants, and the trial hereof not being concluded, the same is continued until to-morrow morning.

* * * * * * *

And on January 11th, 1887, as follows:

UNITED STATES
v.
JOHN T. CHIDESTER AND LOGAN H. ROOTS. } 4210.

Comes the United States, by Joseph W. House, esq., district attorney, and J. E. Williams, esq., assistant district attorney, in this case, and comes the defendants, by John McClure, esq., their attorney, and come the jury, to wit, C. A. Walker, W. A. Jackson, Thos. J. Perryman, B. B. Ramsey, E. J. Faild, Jas. Belcher, A. R. Carmichael, Robt. S. Girkpatrick, Thos. J. Jones, J. N. Burnett, Chas. Nauck, and Chas. Middleton, and the trial hereof not being concluded on yesterday, the same is now resumed, and the trial hereof not being concluded, the same is continued until to-morrow morning.

22 And on January 12th, 1887, as follows:

UNITED STATES
v.
JOHN T. CHIDESTER AND LOGAN H. ROOTS. } 4210.

Come the United States, by Joseph W. House, esq., district attorney, and J. E. Williams, esq., assistant district attorney in this case, and come the defendants, by John McClure, esq., their attorney, and come the jury, to wit, C. A. Walker, W. A. Jackson, Thos. J. Perryman, B. B. Ramsey, E. J. Feild, James Belcher, A. R. Carmichael, Robt. S. Kirkpatrick, Thos. J. Jones, J. N. Burnett, Charles Nauck, and Charles Middleton, and the trial hereof not being concluded on yesterday, the same is now resumed, and the trial hereof not being concluded, the same is continued until to-morrow morning.

* * * * * * *

And on January 13th, 1887, as follows:

UNITED STATES
v.
JOHN T. CHIDESTER AND LOGAN H. ROOTS. } 4210.

Come the United States, by Joseph W. House, esq., district attorney, and J. E. Williams, esq., assistant district attorney in this case, and come the defendants, by John McClure, esq., their attorney, and the parties herein file their agreement as to evidence, and come the jury, to wit, C. A. Walker, W. A. Jackson, Thos. J. Perryman, B. B. Ramsey, E. J. Feild, James Belcher, A. R. Carmichael, Robt. S. Kirkpatrick, Thos. J. Jones, J. N. Burnett, Chas. Nauck, and Charles Middleton, and the trial hereof not being concluded on yesterday, the same is now resumed, and the
23 trial hereof not being concluded, the same is continued until to-morrow morning.

* * * * * * *

Which agreement is as follows:

UNITED STATES
v.
CHIDESTER AND ROOTS. }

It is hereby agreed that the letter of B. B. Simmons, special agent, to Hon. D. M. Key, P. M. Genl., commencing on page 537 of "Inquiry into

Postal Star Service," 46th Congress, 2d session, House of Representatives" Miss. Doc. 31, part 2, and ending on page 540, and four letters of R. P. Eaton to Thos. J. Brady, appearing in the same printed volume, commencing on page 541 and ending on page 543, all of which relate to route number 31454, may be offered in evidence and read at the trial of this cause, with like effect and force of the original letters, subject however to exception for irrelevancy and all other objection save that of authentication.

JOHN MCCLURE,
For Defendants.
J. E. WILLIAMS,
For Plaintiff.

(Indorsed:) Filed Jan. 13th, 1887. Ralph L. Goodrich, clerk.

24 Which letters are as follows:

Route 31454.

WASHINGTON, D. C., *December* 18, 1878.

Hon. D. M. KEY,
Postmaster-Genl., Washington, D. C.:

In pursuance of instructions from the superintendent of the money-order department, Hon. C. F. McDonald, dated September 25th, 1878, directing me to proceed to El Paso and investigate the post-office at that point, and in compliance also with the request of the Second Assistant Postmaster-General, Brady, that I would make an inspection of the mail service on route No. 31454, from Fort Worth, in Texas, to Fort Yuma, in Arizona, I proceeded on my mission, leaving the former place on the 20th of October, and have the honor to submit to you the following report of my inspections, views, and observations: The mail service on the entire route, No. 31454, was originally contracted for by Messrs. *M*hidester & Co. These con*t*hactors have subsequently divided the service on this route into four divisions, classing them as divisions one, two, three, and four, reserving for themselv*i*s the first division *d*rom Fort Worth to Fort Concho, upon which they perform the service, and subleasing the other three divisions as follows, viz: T*e*he second division, from Concho to Mesilla, they have subleased to Messrs. C. Cain & Co.; the third division, from Mesilla to Tucson, to James B. Price & Co.; and the fourth division, from Tucson to Fort Yuma, to Carnes & Co.

My instructions having limited my inspection to El Paso, I shall confine my report to the service on the route between Fort Worth and El Paso, embracing the first and second divisions as subdivided by the contractors, Chidester & Co. The first division extends from Fort Worth to Fort Concho, a distance o*d* 251 miles, within which are located
25 seventeen post-offices, with names and distances intervening, as follows:

	Miles.
Fort Worth to Bear Creek	20
Bear Creek to Thorp Springs	21
Thorp Springs to Grandbury	3
Grandbury to Biloxi	15
Biloxi to Rockfalls	11

	Miles.
Rockfalls to Stephensville	8
Stephensville to Dublin	14
Dublin to Proctor	8
Proctor to Comanche	14
Comanche to Blanket	17
Blanket to Brownswood	13
Brownwood to Jim Ned	14
Jim Ned to Colorado	12
Colorado to Coleman	12
Coleman to Oakvale	14
Oakvale to Walthall	20
Walthall to Fort Concho	35
Total length of first division	251

A portion of the route of the above first division, the one between Fort Worth and Comanche, distance 114 miles west from the former point, is located through a country of great beauty and unsurpassed fertility, already thickly populated, and affording all the protection and facilities needed for safety of travel and the prompt transmission of mails. The service on this section of the first division is of a satisfactory character, being performed by means of four-horse stage-coaches, and the stock used being of superior condition. From Comanche to Concho the route passes through a rich, high, rolling prairie country, well watered, but, unlike the preceding section of the first division, is sparcely settled. The
26 mail service on this section is far from satisfactory. The use of four-horse coaches is discontinued, and two-mule vehicles substituted with stock of very inferior quality, resulting in delays and occasioning frequent and great irregularities.

In consequence of these defects of service, the failures of connection at Concho, between the first and second divisions are of almost daily occurrence, as will better appear by reference to a schedule of departures of mails from Fort Worth and arrivals at Concho from the 1st to 21st of November, 1878, herewith annexed and marked Exhibit A. The schedule fixed by the contractors, Chidester & Co., specified the hour of departure from Fort Worth as 6 a m., and the hour of arrival *of arrival* at Concho daily, at 8 a. m.; yet, it appears from Schedule A, the mail very frequently reached Concho six, and sometimes ten, hours after the time fixed by the contract, which causes a detention of mails west of Concho, of some 24 hours, a very serious irregularity.

I now propose to review the second division from Concho to El Paso, the objective point of my inspection, in compliance with my instructions from the money-order department.

The entire route from Concho to Fort Stockton, distance 170 miles, stretches over a country of the wildest character, almost uninhabited, with the exception of a few small ranches an a small Mexican settlement on the river Pecos, and through which travel and transmissions of mails are unsafe without military escort, owing to frequent incursions of Indians and Mexicans. From Stockton to Fort Davis, the second post-office west of Concho, is 76 miles west of Stockton, and this distance traverses a wild mountainous region, totally uninhabited. Leaving Fort Davis the route proceeds to Saint Elizario, distance 207 miles, through a region of the same character as the preceding, and likewise devoid of population, no settlements

whatever between Fort Davis and Quitman, but numerous Mexican
27 settlements between Quitman and Saint Elizario, and El Paso, and these in close proximity. The third post-office on this division is Saint Elizario, distance 110 miles from Ysleta, and the latter 15 miles from El Paso, making the total route examined by me on the second division from Fort Concho to El Paso some 478 miles. The service on this division is as follows: Three times a week a four-horse overland mail wagon is used from Concho to Fort Davis, while on the remaining days of the week a two-horse buckboard or hack is used. From Fort Davis to Mesilla a four-horse wagon is used once a week, a two-horse wagon or hack three days a week, and three days a week the service is performed on horse-back. So far as the service performed by the four-horse wagon is concerned it may be called satisfactory, but as to the two-horse buck wagon service, and that of one horse and rider, they are totally unsatisfactory, wholly unsafe; and it is undoubtedly to this method of service that the frequent robberies are to be attributed, and I may add that without the vigilance of our military commanders no dependance could at any time be placed in such service, as the employees of the mail contractors frequently refuse escort, thereby giving rise to distrust and suspicion. I feel it my duty to state here that the postal department is greatly indebted to the officers of posts along this route for their ever prompt assistance and protection, and I cannot omit mentioning the valuable aid extended by Col. Grierson, at Fort Concho, Col. Carpenter, at Fort Davis, and Major Osborn, at Fort Bliss, all of whom gave me valuable views as to the mail service of that section and the reforms needed. In extenuation of the short comings of the contractors on the second division, I must state that the performance of the service is attended by great obstacles. At Centralia, a station on the route, for instance, water for the stock has to be hauled for a distance of forty miles; at Van Horn station, some forty-four miles; while in some enstances forage has to be transported for longer distances;
28 and were it not for the peculiar and hardy breed of mules used, the broncho mule, which, like camels, endure much fatigue, and frequently travel forty miles and more without water, the service would almost be impossible. So far as the postmasters are concerned, I have to state that I found them all faithful to their duty, with the exception of those at El Paso, Ysleta, and Saint Elizario, with regard to whom I will shortly submit a special report.

I narrowly escaped an Indian raid near Eagle Springs, the escape being due to the vigilance of Colonel Grierson, who, anticipateing their attack, had dispatched troops to meet them. I annex to this report map marked B, to indicate post-offices and stations. I would, in conclusion, suggest the discontinuance of a daily service between Concho and El Paso. The nearly completed telegraphic communications with that section makes that modification susceptible. I would recommend in lieu of the daily a tri-weekly service, to be performed by four-horse wagons, and making it imperatively requisite that the drivers should take an escort. This course being observed, robberies would be less frequent if not entirely suppressed. It may also be proper to state that at every mail station on the second division, from the second station west of Concho to Quitman, on the Rio Grande, commanders of military posts have made it a rule to assign to each of these stations a detail of two to four men as guards, or to act as

escorts to mail coaches and wagons whenever required, but it too often happens that these detailed troops are so badly treated by mail drivers and other employees of mail contractors that they become unwilling to serve as escorts, or do so reluctantly. The cause of this bad treatment may, perhaps, be found in the fact that the military guards furnished are all detailed from colored troops, there being no white regiments being stationed in that section of the country. Another matter requires special attention, and that is a practice that has to some extent prevailed along this line. Some of the postmasters have been acting in double
29 capacity, as postmasters and at the same time as agents for the contractors, positions unquestionably incompatible. These officers can not be strictly faithful to the Government while subserving the interest of mail contractors. It would be well, in the interest of the Government service, that such practices should be summarily checked. In conclusion, I would respectfully suggest, in the interest of the Government, that a special agent be assigned to this long and perilous route, thereby insuring more regular and efficient service.

Respectfully, your obedient servant,

B. B. SIMMES,
Special Agent.

Route No. 31454.

FORT CONCHO, TEXAS, *February 28th*, 1879.

Hon. THOS. J. BRADY, *Washington, D. C.:*

SIR: *O* arrived here yesterday at 12 m. from Fort Worth, leaving the latter place Tuesday at 5 p. m., being 55 hours on the road, a distance of 240 miles. The route, as you probably know, is operated by four distinct stage companies, viz: Chidester & Adams, from Fort Worth to Fort Concho; Bain & Taylor, from Fort Concho to Mesilla, New Mexico; J. B. Price, from Mesilla to Tucson, and Kerens & Griffith, from Tucson to Yuma, or the end of the route.

The line I have come over is fairly stocked, and is probably as well run as the average stage line. For the first 28 miles they run the large covered coaches and four-horse stock, making good time; then for 87 miles, to Comanche, four-horse stock and Concord (seven-passenger)
30 wagons. At Comanche they change to two-horse stock and three-passenger wagons, which are run to Brownwood, 35 miles, with but one change of teams, and from Brownwood to Jennings (?), 8 miles, the same kind of service. From Jennings to Concho, three-passenger wagons and two-mule stock. There is no buckboard service on this Fort Worth and Fort Concho line. The stage does not pass the Paluxy office owing to the bad road, but a horseback service is employed daily each way from Granbury, via Paluxy, to Stevenville, arriving and departing with the stage, so that Peluxy gets the benefit of a through mail but no passenger conveyance, with which the people, so far as I could learn, are satisfied. I don't see how it can be helped if they are not satisfied. The road is well provided with stations, and the stock is first rate on some parts of the road and fair on others. The stations are from eight to twenty-three miles apart, the longer ones being a necessity owing to want of water. It takes a long time at most of the places to change the mails, but so far as I observed there was no unnecessary delay.

This not being a schedule point, they have no regular hour for leaving or arriving. If the time is made through in 3 days that fills the bill, but I won't know whether it is or not until I get through. I have taken means to learn of these things regardless of the time made when I am on the coach, and I will give you the benefit of it in due time. All with whom I have talked, including the officers of this post, are satisfied with the present service. General Grierson, commanding at this post, informs me that it is a great deal better than formerly, and is conssantly improving. The travel on this road amounts comparatively to nothing. The roads at this season of the year are good, and faster time can be made if necessary, but in muddy weather they have got all they can attend to. I leave this evening for Fort Davis, and will be at Silver City about the 7th or 8th proximo. Shall stop there a day or two, then go to Tucson. Will write to you from El Paso or Silver City, and perhaps from both places.

Very truly yours,

R. P. EATON,
Assistant Superintendent Railway Mail Service.

31 Route No. 31454.

SILVER CITY, N. MEX., *March 12th*, 1879.

DEAR SIR: Continuing my letter from Fort Concho, I have to say that I arrived here yesterday morning after lying over two days at El Paso and two at Mesilla. I was willing enough for the opportunity, as the ride was a particularly hard one. In my last letter I referred only to that part of this route between Forts Worth and Concho, preferring to take each subdivision by itself, and in this I will give you the result of my observations concerning the Concho and Mesilla division. And first let me say that, as they were running prior to my visit, I don't see how they could possibly make the time (13 days) required by the reduced schedule, and I doubt if they ever did. They are now doing better and promise to continue. They have been operating something as follows: The stage will leave Fort Worth, for instance, Tuesday at 5 a. m., arriving at Fort Concho the third day, Thursday at 12 m., 55 hours on the road, a distance of 240 miles. This is the exact time made when I came over, and the postmasters and officers at the post informed me it was the average time of arrival of late. Leaving Concho Thursday at 9 p. m., a delay of at least eight hours, allowing one hour for changing the mail, arriving at Fort Davis, 246 miles, at from 1 to 4 a. m., Sunday; time 52 to 55 hours. Leaving Fort Davis Sunday at 9 a. m., another delay of 5 or 6 hours, arriving at Mesilla, 293 miles, Tuesday after midnight; time from Fort Worth to Mesilla, 779 miles, 7 days and 19 hours, at least, and oftener eight (8) days.

Each subdivision is, or rather has been, operated independently, having its own schedule, regardless of the other; the carrier, whether stage,
buckboard, or horseback, leaving on the prescribed time, whether
32 the connecting mail (which seems to be a misnomer) has arrived or not. The important mail for this section is from the north and east via Santa Fé, and Mr. Price makes close connection with that both ways. But of his line (Mesilla to Tucson) I will write you from Tucson, for which place I leave to-morrow morning.

The for going is the way the mails have been carried up to a few days past. They are now endeavoring to connect. The San Antonio mail makes close connections with this; another improvement. The stock on the road is nothing to brag of, but it would almost seem extravagant to put first-rate stock on such a road. In fact horses can not do the work. The country between Concho and Quitman except in spots, is rocky and barren, and water very scarce, on account of which the stations are from 20 to 43 miles apart. Four-horse coaches are run three times a week from Concho to a point 55 miles west; then a change to mules is made; from Davis to Mesilla a two-horse (or mule) conveyance. Four (4) trips a week are made with buckboard to Quitman, and from thence to Mesilla a one-horse sulkey is employed. It is a hard route to run, and no money in it except the mail pay, and I will give them credit for trying to perform good service, although, as yet, they haven't succeeded. I intended to write you from Mesilla, but was laid up with a severe cold.

In haste, very respectfully, yours,

R. P. EATON,
Assistant Superintendent Railway Mail Service.

Hon. THOS. J. BRADY,
Second Assistant Postmaster-General, Washington, D. C.

33 Route No. 31454.

TUCSON, ARIZONA, *March 15th*, 1879.

DEAR GENERAL: When I last wrote you from Silver City, I was suffering with a severe cold, and not in very good trim, but if I was not wholly unintelligible you have now something of an idea how the service is performed on the big route from Fort Worth to Mesilla. I arrived here this morning about 3 o'clock over the main line operated by J. B. Price. This is the best stocked portion of the route so far. What it is from here west I will learn shortly. Four-horse coaches are run every other day from Mesilla to Tucson, a distance of 345 miles, and the time 70 hours. On alternate days they have a horseback service between Mesilla and Silver City, 120 miles, and from Silver City to Tucson, 225 miles, buckboard service.

In a week or so the horseback service will be replaced by a buckboard service, after which there will be, or need be, no delays. The people have had good cause of complaint until now, but they say that the present service is so much better than they ever had before, they are perfectly willing to overlook the few irregularities that now occur. I am satisfied that it took nearly, if not quite, 15 days from Fort Worth to Tucson. Since my coming over the eastern portion of it the time has been shortened one day. Kerens & Griffith must shorten their line one day at least. Then all will be well. The railroad is now at Stanwix, 74 miles by rail and one hundred miles by the travelled road, east of Yuma, and trains running. I will, however, write you more particularly regarding this from Prescott.

Very respectfully,

R. P. EATON,
Assistant Superintendent Railway Mail Service.

Hon. THOS. J. BRADY,
Washington, D. C.

34 Route 31454.

PRESCOTT, ARIZONA, *April 10th*, 1879.

SIR: The line operated by Kerens and Griffith between Tucson and Yuma is in good condition, employing four horse stock, and seven, nine, and eleven passenger wagon or coaches, and since the extension of the railroad to Gila Bend has made excellent time. Prior to that time the people of Tucson complained bitterly because the contractor took his whole schedule time from Yuma to Tucson, notwithstanding the fact that the mails were carried for a considerable distance by rail.

They felt that they ought to have had the benefit of such extension in the earlier receipt of mails; but that matter had to be left entirely to the conscience of the contractor.

The people of Tucson, and indeed along the whole line, are now much pleased with the present mail facilities. My information is that now the whole route is operated with a view to make close connection clear through: one good result of my visit, I think.

I leave in the morning for New Mexico, in accordance with your telegraphic instructions.

Very respectfully,

R. P. EATON,
Assistant Supt. Railway Mail Service.

Hon. THOS. J. BRADY,
Sec. Asst. Postmaster-Genl., Washington, D. C.

35 WASHINGTON, *March 25th*, 1880.

CHARLES ADAMS sworn and examined.

By Mr. BLACKBURN:

Question. What is your occupation?

Answer. I am a special agent of the Post-Office Department.

Q. How long have you been since?

A. Since January, 1875.

* * * * * * *

Q. Do you know anything about the Fort Worth and Yuma route?

A. I was over it last July. There is very fair service on that route.

Q. The original contract price was $134,000?

A. They could not carry it for that; it is impossible.

Q. The present pay is $299,000?

A. Well, I don't think there is any great profit in it at that price. It is a very long route through a very bad country.

Q. How do they perform the service, by coaches or buckboards?

A. They have coaches, and they run buckboards on off days, but they have at least three animals to each vehicle. They are doing very fair service on the route; they are running night and day at about four or five miles an hour.

Mr. BLACKBURN. The distance is 1,560 miles, and they were allowed originally 408 hours.

Mr. BLOUNT. They had seventeen days at the beginning, but the time was cut down to thirteen days?

The WITNESS. I think they perform it in that time.

By Mr. BLOUNT:

Q. Do they greze their stock on that route?

A. I think they graze it; they also have hay and corn.

36 Q. How many sacks of mail do they carry?

A. The quantity differs between different places; the line is a long one, and they have a great many different connections. I did not go over a part of the line from Fort Worth to Concho; I joined the line at Concho; the mails between there and Fort Worth are very heavy. Then from Concho to Fort Davis they are also quite heavy.

Q. What is the distance between Fort Worth and Concho?

A. About 300 miles, I think. I should say there is daily about 500 pounds of mail from Fort Worth to Concho; then I should say that there would be 450 pounds of mail arriving at Stockton and about 400 pounds at Fort Davis; El Paso and San Elizario will probably take 300 pounds of that every day, so that there will be only about 100 pounds left, part of which will go to Mesillo and up to Santa Fe. An entirely new mail comes in at El Paso, and increases the weight of the mails as far as Mesilla; then at that point all the mail from the Northwestern States comes down, which will probably bring the weight up to 500 pounds again; that will go west as far as Camp Bayard, there it will drop probably 100 pounds; then it goes to Silver City or to Georgetown, and it drops probably 200 pounds there; then there is probably 200 pounds left going to Arizona; but from Fort Bayard and Silver City it will fill up again, and probably about 400 pounds will go through to Tucson, except that some will be dropped off at Fort Mrant, Camp Thomas, and Camp Apache, all of which points are supplied by way of Colorado. Then of course it carries all the western mail again from Tucson to Yuma.

Q. What about the mails between those two points?

A. The mail from Tucson, with the Prescott mail added, will probably make 1,500 pounds. The railroad is now finished into Tucson. It was not finished when I was there last. It was only finished to Maricopa Wells.

37 Q. What is the distance from Tucson to Fort Yuma?

A. It must be in the neighborhood of 300 miles.

Q. From Tucson to Fort Yuma the star route contractor is paying the railroad company for carrying the mail, I believe?

A. That is often done. I do not know that it is done there, but I know that it has been done on other lines.

(To the introduction and reading of these letters the plaintiff at the time excepted, on the ground of irrelevancy and incompetency, and which objection the court overruled, to which ruling of the court the plaintiff by her counsel excepted.)

38 And on January 14th, 1887, as follows:

UNITED STATES
v. } 4210.
JOHN T. MHIDESTER AND LOGAN H. ROOTS

Comes the United States, by Joseph W. House, esq., district attorney, and J. E. Williams, esq., assistant district attorney in this case, and come the defendants, by John McClure, esq., their attorney, and come the jury,

to wit, C. A. Walker, W. A. Jackson, Thos. J. Perryman, B. B. Ramsey, E. J. Feild, James Belcher, A. R. Carmichael, Robt. S. Kirkpatrick, Thos. J. Jones, J. W. Burnett, Chas. Nauck, and Charles Middleton, and the trial hereof not being concluded in yesterday, the same is now resumed, and the jury, having heard all the evidence and argument of counsel, and having been charged and instructed by the court, considered of their verdict and returned into court the following verdict: We, the jury, find the issues for the defendants.

It is therefore ordered, considered, and adjudged that the United States take nothing by her said complaint.

* * * * * * *

And on January 19th, 1887, as follows:

UNITED STATES
v.
JOHN T. CHIDESTER AND LOGAN H. ROOTS. } 4210.

Comes the United States, by Joseph W. House, esq., district attorney, and J. E. Williams, esq., assistant district attorney in this case, and come the defendants, by John McClure, esq., their attorney, and, on motion, the plaintiff is granted until the last day of this term to prepare her bill of exceptions for the signature of the judge in this cause.

* * * * * * *

39 United States of America, eastern district of Arkansas.

Be it remembered, that at a circuit court of the United States of America, in and for the eastern district of Arkansas, begun and holden on Monday, the 11th day of April, anno Domini one thousand eight hundred and eighty-seven, at the United States court room, in the city of Little Rock, Arkansas, the honorable Henry C. Caldwell, district judge, presiding and holding said court, the following proceedings were had, to-wit:

On April 26th 1887:

UNITED STATES
v.
JOHN T. CHIDESTER AND LOGAN H. ROOTS. } 4210.

On this day comes the plaintiff, by her attorney, J. W. House, U. S. district attorney; also came the defendants by their attorney, John McClure, esq., and the court having had under consideration the motion of the defendants to suppress certain parts of the depositions in this cause, taken in behalf of the plaintiff, and being well advised in the premises doth sustain said motion as to the questions number seventeen and eighteen, and answers thereto, in the deposition of A. G. Goff, and as to that part of the deposition of J. J. Gallagher commencing on page two of said deposition at the words "I am of the opinion that in order to carry the mail alone from Fort Worth, Texas, to Fort Concho, Texas," and containing down to and including the following words "because a man hardly ever will drive a team at less than five miles an hour in driving a stage,"

and as to questions number ten and eleven and the answers thereto in the deposition of James Davis, and as to questions six and seven and the answers thereto, in the deposition of Vanatta, and as to questions number nine and ten and the answers thereto, in the deposition of Wm. Skinner; and overrules said motion as to the balance of said parts of depositions to which said several rulings of the court in suppressing said parts of
40 depositions as herein stated, the plaintiff at the time excepting, and this order having been made on the 10th day of January, 1887, and not entered of record, the same is entered now for then.

* * * * * * *

And on the same day as follows:

UNITED STATES
v. } 4210.
JOHN T. CHIDESTER AND LOGAN H. ROOTS.

Comes the United States, by J. W. House, esq., district attorney, and J. E. Williams, special assistant district attorney, and the defendants, by John McClure, their attorney, and the said plaintiff by her said attorneys presents her bill of exceptions in this cause, which is signed and sealed by the court and ordered to be filed.

This order was made on the 7th day of April, 1887, and it is ordered that it be entered of record now for then.

* * * * * * *

Which bill of exceptions is as follows:

In the circuit court of the United States for the eastern district of Arkansas, before Hon. H. C. Caldwell, district judge.

UNITED STATES
v. } 4210.
JOHN T. CHIDESTER AND LOGAN H. ROOTS.

41 Be it remembered that at the trial of the above entitled cause on the 10th day of January, 1887, being a day of the October term of said court, the following proceedings were had, to wit: The trial coming on to be heard on the 10th day of Jan., 1887, before the Hon. Henry C. Caldwell, United States district judge for the eastern district of Arkansas, and a jury empannelled to try this cause, the plaintiff, to maintain the issues on its part, introduced the following testimony, to wit:

J. J. GILLIS, being duly sworn, testified as follows:

Examined by J. W. HOUSE:

Question. Have you ever heard John T. Chidester give any reason for keeping so much stock on the route in the beginning of the service?

(Objected to; objection overruled and exception taken.)

Answer. When we stocked the road we didn't know really what we did need. We put it on, and after going over the road a trip or two we soon saw we didn't need the amount of stock, and I said to him, "Col., we don't need so much stock at the upper end," and he said, "Well, we will keep the stock awhile; I will take it off after awhile."

Q. Did he give you any reason why it was kept there?

A. He said he would take it off the road after awhile, as he wanted to expedite the service, and then if we could cut it down that they might do it.

Q. Do you recollect what he said he was paid for the entire route?

A. Yes; $134,000. He told me that was much cheaper than it had ever been bid off for before.

Q. And he said he wanted to get the service expedited.

A Yes, sir; said he could get the service increased and get more mail pay.

42 Q. Do you know of any action taken on the part of Mr. Chidester in regard to getting the service expedited, anything that he did along the line of the route, at the various post-offices, and with influential citizens. State what you heard him say, if anything, and what you saw?

A. Well, he told me he was getting up petitions to have the service expedited, and it was best to put the best foot foremost.

Q. Do you know of any petitions being circulated, or anything of that kind, and if so by whom?

A. Well, I knew about the petitions—he told me; that is all I knew about it.

Q. Just state what he said.

A. When I was at Granberry there was a petition circulated there, so I was told, I didn't see it.

Q. Did you ever hear him say anything about the petitions?

A. Yes, I heard him say afterward that he had got there all right, and had got the service expedited.

Q. After he saw he had got there all right and had got the service expedited, was there any change made in the stock in this line, after the service was expedited?

A. Well, I don't know when the service was expedited; but I remember when he came back from Washington and told me that everything was all right, that his service was expedited, that it was all right, that they had increased the schedule a little, but the running time would be about the same rate as they were then; they were making good time, as the roads were splendid.

Q. Were you ordered by Mr. Chidester at any time to take off
43 any of the 106 head that you had in use?

A. Yes; we took off the four-coach stock—the four-horse teams—I can't tell how much was taken off.

Q. Was that before or after the service was expedited, as you understood from Mr. Chidester?

A. I don't know when the service was expedited. It was after he came back from Washington.

Q. What did he say to you about taking it off?

A. He said they had to go; that we had just got to take some more off. He said we had no use for so much stock.

Q. Was that before or after Mr. Chidester had told you that the thing was all right, that the service was expedited?

A. Well, I can't say it was before; I know it was after he was satisfied the service was expedited.

Q. Did you understand from him that the service was expedited when he ordered the stock off?

A. Yes; he was satisfied that it was expedited or would be, at the time when he told me. We didn't have any use for the stock in the first place. We had splendid stock, and put too much there in the first place. They put four teams on forty miles and took off one, leaving three teams there. They were running the four teams plump through without stopping.

Q. How is that?

A. From Walthal to Fort Concho the distance was forty miles, and they drove through without stopping. We didn't have any station in these for forty miles.

44 Q. Did Mr. Chidester ever say anything about getting the postmasters interested along the route to have the service expedited in any way?

A. Well, he cautioned me on different occasions that I must always keep the good will of the postmasters, that they could do a good deal in his favor, or a great deal against him at that time.

Q. This was at about what time?

A. Right about when he wanted the service expedited.

Q. At the time the service was started Mr. Chidester only ran the route to Fort Concho?

A. That is all the far.

Q. Did you understand from Mr. Chidester who was running the other part of the line?

A. My understanding was, he bid off the whole from Fort Worth to Yuma; 1,560 miles was the distance, he told me.

Q. Was there not other parties running part of the line when you were there?

A. Yes; at Concho, going to El Paso.

Q. Did you recollect or did he tell you what parties were running the other end of the line?

A. Well, there were different contractors on the road—I think there was Taylor, Price, Kerens—I do not know whether there was any other subcontractors or not—but I know these three names—I have heard him speak of them often.

Q. Can you recollect about the weight of the mails at the time the service was expedited, from about the first or fifteenth of August, 1878, going out from Fort Worth and along the line to the far end of your drive?

A. I suppose the mails were some heavier at times. I was not in

45 Fort Worth all the time. I was miles away very often. I don't know the exact weight. It was no less in August than it was in July.

Q. What was the weight of the mail going west from Fort Worth at that time?

A. The weight would not exceed 350 pounds at any time—when it came regular that was about the weight. Sometimes we would have two mails a ——

Q. As you went further west did the weight of the mail increase or decrease?

A. After passing Concho there was not much mail.

Q. You state that at Fort Worth the weight of the mail was 350 pounds; how far did you go before the mail began to get lighter?

A. Granbury and Sharp Springs taken a great deal of mail out and Stevensvill and some little towns along the road. We had some feeding routes—horseback routes—that we supplied. At Sharp Springs a good many people resorted there for health sometimes—Granbury, Stevens and all those little places.

Q. Now, what was the weight of the mail after leaving Comanche?

A. I can't approximate it.

Q. Of course you can't estimate it exactly; about how much?

A. One hundred pounds; it would not exceed that much, and might have been less.

Q. What was the character of the roads from Fort Worth to Fort Concho?

A. A splendid road. There was one sandy bottom of about 8 miles. That was the worst part of the road in hot weather.

Q. What time did you usually make with the teams before the service was expedited?

46 A. Well, with the exception of that sandy bottom, we would make about six or seven miles an hour; there was no trouble to do it, as we had good sresh stock; we could have run ten miles over good roads.

Q. Taking the character of the country and everything into consideration, what would have been a reasonable speed for animals to make?

A. Over that sandy bottom, two or two and a half miles—with the exception of that, we could make six and seven miles without hurting the horses.

Q. How many hours could you drive at that speed drawing the mail, without injury to the stock?

A. A man who understood driving could drive six hours.

(Objected to.)

Q. Well, I will ask you first, then how many miles did you usually drive at that speed, in driving over this line?

A. I don't know that I ever timed them more than from my own knowledge of travelling. Driving at an average of not less than six miles an hour; with the exception of this sandy bottom, six or seven miles.

Q. Now then, how many horses did you require then to rest ordinarily, to make that speed each day?

A. Well, we didn't have any particular time; every driver gave all the time he could. We had good stock and good roads, and our instructions from Col. Chidester was always to give them as much time at Concho as we could. That was his instruction to me, and when I got the mail, I would drive through as rapidly as I could.

Q. Now, I will ask you this question: From your knowledge and experience as a stage driver, taking the country, character of roads, and weight of mail and everything into consideration, at that point, how far could a horse be driven at the rate of six miles an hour? How many hours could he be driven each day without injury to him?

47 (Objected to; objection sustained. Exception taken.)

Q. I understand you to state then, Mr. Gillis, that you drove on an average at about the rate of six miles an hour.

A. Yes, sir; about six miles an hour on the average.

Q. Well, about how far would you drive at a time—a day?

A. From station to station. Some had to run further than others and

some had heavier roads, and some had heavier coaches than others. There was a coach going east and a coach going west at the same time. When a team drove to a station, there was another team to go back. They had a separate change of horses; both didn't drive the same team. The driver had his own stock, and the driver going east had his own stock, but they changed coches.

Q. From your knowledge as a stage man, taking into consideration the country over which this mail was carried, the condition of the roads, the climate, and the weight of the mail, how many hours per day could a horse be driven at a speed of five miles per hour?

(Objected to.)

The COURT. The witness may state the result of his observation, but not his opinion; that he believes he has had personal experience; he may state what he has seen and what he knows. He may state that he has seen a horse driven over that road at such a rate of speed; that so many miles were made every day; and that it did not injure the stock, and that they were able to return the next day.

The objection is sustained. The witness can state his knowledge of the facts, and he can state what his observation has been on the particular line in question.

Q. I believe you stated, Mr. Gillis, that over one portion of this line there was driven ——. What was the longest distance?

48 A. Forty miles—from Colorado River to Fort Concho.

Q. What was the usual rate of speed over that part of the line?

A. Well, that was over a pretty good road, the best part of the road on the whole route; it was a good, level, gravelly road, and in fact the load was light on that end, and they made from seven to seven and a half miles an hour, seven to eight hours.

Q. In performing that service over that forty miles of the line how often did the same team go over the same portion of the line?

A. Well, there were three teams on the last part. We had four teams at first. One team would leave Concho this morning, and another would leave Colorado about 10 o'clock, and pass, going both ways. There was one team at Concho over night and two at Colorado. They run the round trip, each driver with his own team, and had no change between Colorado and Concho.

Q. You stated awhile ago that after the service was expedited a portion of the stock was taken off. Was any part of the service on this line performed by two horses?

A. Yes, we had two horses. The stock was pulled off to two horses from Concho, so I was told.

Q. I mean while you were there. Was any part of this line performed by two horses before you left?

A. Yes, sir.

Q. Over what part of the line was the two-horse service?

A. From Colorado to Jenkins; that was about ten miles from Brownwood.

Q. For what distance was it performed by two horses?

A. There was three teams; one went about 17 miles, the other 14,

49 I think, and the other was 22, to Colorado. We kept four-horse stock on, I think, while I was there, from Colorado to Concho, on account of the long drive.

Q. Now was there any four-horse teams taken off and two-horse stock put on, alternating days, besides those you have mentioned, between those two points?

A. No, sir; not while I was there. They taken off the big coaches and put on canvas tops, with the exception of two coaches. At Fort Worth there was heavy mails, and we kept two large coaches on that part of the line from Fort Worth to Granburu*u*. We had plenty of canvas tops out there, and swell bodies, old line coaches, to carry the passengers over the line.

Q. Was there any difference in speed made after changing from the four horses to two horses over that part of the line—increase or decrease?

A. Two horses could travel with a light vehicle as fast as four would with a heavy one, and we had some Concord thoroughbrace wagons, and we could carry three or four passengers with a driver—four, if necessary. The seats in a coach were made for three.

Q. About what number of passengers did you really carry over this part of the line daily?

(Objected to; objection overruled. Exception.)

A. I could not say.

Q. Give the best estimate you can.

A. A great many trips were made without any one. It has been a good while ago. I couldn't tell anything about it; couldn't approximate the average. I remember on the 2d of July the coach was full.

50 There was ten passengers outside of the driver.

Q. Was that a daily occurrence?

A. No, sir; that was about the biggest load we ever had over the road I believe.

Q. Was there any occasion for this? The large number of passengers?

A. Yes, there had been a failure below and we had two days' run.

Q. During the time you were on the route was there days when you had no passengers?

A. Yes, sir; several days when the coaches went over without any passengers.

Q. What was the carrying capacity of the coaches first put on?

A. They could carry four people on the big coaches.

Q. How many could you carry on the small coaches?

A. Well when they ran slow you might say they had a capacity for three passengers besides the driver, we carried four sometimes, that was on a two-horse hack. We could have carried four or five people on the upper end where the mail was light and the vehicle was strong, but they had a capacity for three passengers and a driver.

Q. About how such baggage was each passenger entitled to carry?

A. I think they were allowed fifty pounds, forty or fifty.

Q. Was there any express matter?

A. We had some, yes, sir.

Q. To what extent?

A. Sometimes right smart from Fort Worth, and sometimes the express matter would go all the way to Concho, and the Government officers would have packages often, for there was a garrison at Comanche.

51 Q. How much?

A. It is hard for me to tell. I couldn't approximate it for weeks and weeks, sometimes none, and then again several big packages. It was a stage express, no regular express line, though sometimes we charged for it.

Q. I would like you to give an estimate if you can, of the largest amount carried over the road?

A. I couldn't do that from the fact it would only be guess-work with me.

Q. Have you carried mail with one horse, and do you know the weight of mail an animal well fed and properly cared for can haul, going at the rate of five miles an hour for three and a half hours each day?

(Objected to. Objection sustained. Exception.)

Q. Do you know the effect of the climate at the point where you were superintending the mail for Chidester, as upon a horse, as to his enduring capacity, whether it enervates him or not.

A. My experience in staging in Arkansas and Texas is that stock acclimated in Texas can do as much or more staging there as he can in Arkansas.

Q. Have you ever performed mail service in Arkansas with a one-horse buckboard, or buggy service, where mail was required to be carried weighing 300 pounds or more?

(Objected to. Objection sustained. Exception.)

Q. From your knowledge and experience as a stage man, at the points in Texas over which you were acting as superintendent, how much mail matter could one horse and a buckboard carry at the rate of five miles per hour for three hours per day?

(Objected to. Objection sustained. Exception.)

52 Q. How much weight could a horse haul over this part of the line with a buckboard?

(Objected to. Objection overruled. Exception.)

Q. At the rate of five miles an hour?

A. That would depend upon the condition of the roads at the time. I consider if the roads were in fine condition a horse could draw three or four hundred pounds at five miles an hour and keep it up for three hours.

Q. What was the answer; I didn't understand it?

A. I said if the road was in good condition like they were when we started this route a horse could go with three or four hundred pounds for five miles an hour for three hours without hurting him.

Q. How much mail could a horse carry over this part of the line at a speed of three and a half miles per hour for eight hours in each day?

(Objected to. Objection overruled. Exception.)

A. Well, he could carry the same amount at three and a half miles when the roads were in good condition.

Q. Please state what amount of mail a horse could carry over this route at five miles per hour and how many hours per day could he travel without injury to the animal.

A. He could travel three hours with three hundred and fifty pounds of mail without injury to himself at five miles an hour, if the roads were in good condition—owing altogether to the condition of the roads.

Q. During the time you were there were the horses driven be-
53 yond this capacity; I mean by that were they driven about the same as for ordinary stage travel, or were they driven at more than ordinary speed?

A. No, sir; at about the regular stage gait, five or six miles an hour, I suppose, on the average, or nearly that time, with the exception of through this sandy bottom. Through that we took it very slow. It was about eight miles in the sand; about two an' a half miles an hour through there. In the timber where we could get no breeze—that was in the timber—but on the prairie we had a breeze all the time, and a horse could travel right along and not hurt him.

Q. At the stations about what length of time would ordinarily be required to change the horses?

A. Well, at some of the stations in taking the mails we were delayed longer, but as a general thing not over ten or fifteen minutes in changing the mails and the passengers to eat. The drivers going out were always ready to hitch on to the coach as soon as the other team was taken loose, and at other stations where they changed coaches the teams were hitched generally when we got there.

Q. Have you made an estimate as to the number of horses and men that would necessarily be employed at a speed of five miles per hour that would be required to stock and furnish this entire line from Fort Worth, Texas, to Yuma, Arizona, assuming that the line from Fort Concho to Yuma was the same character of roads, and the endurance of the horses would be the same as upon that part of the line from Fort Worth to Concho; if you have made that estimate, please state the number.

(Objected to. Objection sustained. Exception.)

The COURT. The Government may prove by this witness, if it can, the number of horses, vehicles, and men required to carry the mail on the part of the line about which he had personal knowledge.

54 Q. Please state the number of men and animals that would be necessarily employed for the purpose of carrying the mail over that part of the line of which you was superintendent?

(Objected to. Objection sustained. Exception.)

Q. Please state if a less number of men and animals could have performed the service over this part of the line than were used while you were superintendent.

(Objected to. Objection sustained. Exception.)

Q. In regard to the circulation of petitions over this part of the line, for the purpose of bringing about the expedition of the service, I will ask you if you ever circulated any such petition, and, if so, at whose instance?

A. I never circulated any, at anybody's instance.

Cross-examination. JOHN MCCLURE, attorney for defendants.

Q. In your examination in chief, Mr. Gillis, you were asked about the capacity of horses to travel to a buckboard, with 350 to 400 pounds *pounds* of mail. State if, during the time you were in Texas, you ever saw a horse so travel.

A. I did not.

Q. Then when you were asked the question and stated the capacity of a horse to perform that kind of service it was not a matter within your personal knowledge?

A. Yes; it was from personal knowledge of the use of stock when I was in Arkansas.

55 Q. I am asking you if you knew about it in Texas.

A. I did not, in Texas.

Q. How long were you in Texas upon this route?

A. I am unable to tell you the exact time; about two months, I think.

Q. Were you there exceeding one month?

A. Yes, sir.

Q. From what fact or circumstance are you positive of that?

A. Well, I know I was there more than a month.

Q. How much longer than a month?

A. I can't say how much longer.

Q. What was the month you were there?

A. I came home in August, about the latter part of August.

Q. You say your compensation was a hundred dollars per month. Was that not all you were paid, $100, for your services, and no more?

A. No, sir.

Q. How much was you paid?

A. On settlement with Col. Chidester I think I was paid one hundred and seventy and some odd dollars.

Q. That included the service you performed in the month of June, did it not?

A. Yes. He might have paid me something before that; I am not sure.

Q. You came home some time in August?

A. I think the latter part of August. I have no memorandum or writing to refresh my memory. My recollection is it was in

56 August, and I think about the latter part, when I came home last from Texas.

Q. The last time?

A. Yes, sir.

Q. You have stated in your examination in chief that you carried both passengers, express, and baggage upon the same vehicles used in the transportation of the mail. State if such passengers, baggage, and express matter did require extra horses by reason of being carried in the same vehicle with the mail.

A. They were carried in the regular coach the mail was in.

Q. And you were required to use no more horses?

A. The regular stock on the road was all we used. We had extra stock on the road for other purposes.

Q. The same stock was used whether you carried the mail or carried with it passengers, baggage, and express.

A. The same stock was used every day, passengers or no passengers.

Q. At what time did you leave Fort Worth and at what time were you required to arrive at Concho?

A. We left Fort Worth, that is, near that——

Q. In the morning, say, of Monday?

A. Every morning.

Q. Now, what time did you get through to Concho?

A. Generally in a little over two and a half days.

Q. I want the hour of your arrival at Concho?

A. On the third day we got into Concho at 12 to 4 o'clock in the afternoon; sometimes a little later.

57 Q. This made you out at 5 o'clock Wednesday, two days, and you got in about four o'clock in the afternoon?

A. The third day we got into Concho from noon to four o'clock, generally.

Q. Fifty-nine hours; was that your ordinary time through?

A. That was our ordinary time; yes, sir.

Q. What was the distance through there?

A. Well, I can give the distance between stations; I don't remember what was the aggregate; about two hundred miles.

Q. Was it not two hundred and fifty-one, in point of fact?

A. May be it was.

Q. Then, dividing 251 by 59 would give the rate of your schedule time, would it not?

A. Well, taking the stops, time detained at stations, post-offices, and so on.

Q. Well, that is not five miles an hour for that distance. You know you say you drove at the rate of six miles an hour?

A. That is about right. There was eight miles of sand, at about two and a half miles.

Q. Now, there was eight miles of the route that you didn't drive at six miles an hour?

A. That was about the time made.

Q. Then why was you not at Concho before four o'clock, if you made that time all the way?

A. We didn't drive the teams all the time; there was stops.

58 Q. How much time was taken out by the stops?

A. I can't say exactly what time; the stops for noon and mail changing which was necessary; about fifteen minutes for changing horses, and then half an hour at the office at Comanche, and stopping to get a little work done, and may be sometimes a little longer was necessary.

Q. I will ask if it is not true that during the time that you were there that Bain, who took the mail from Concho west, had to wait from four to five hours for you to get in?

A. I don't know anything about his waiting; when I saw the mail leaving there it was in the morning.

Q. You was not upon the route except for a month and a half, and that was commencing about the first of July?

A. No, sir; I was there in June, and I was on the route from the first of July to some time in August.

Q. You don't know when the expedition took place then?

A. No, sir; I do not.

Q. Then you came home; that is you left there?

A. Yes, sir.

Q. And know nothing about what happened afterwards?

A. Nothing, only hearsay.

Q. Of your own knowledge you don't know whether any more men and animals were employed upon the route after you left than there was before?

A. Of my own knowledge, I do not.

Q. Why did you leave there?

A. I wanted to leave there some four weeks earlier than I did. Col.

Chidester had gone away and I could not leave before he reached
59 home; one of my children had died at Malvern, and I was anxious to get away, and started home as soon as he got back.

Q. It is not true that you were discharged?

A. No, sir.

Q. You are positive about that?

A. I am positive.

Q. Who was present when the conversation that you have alluded to in your examination in chief with Mr. Chidester occurred?

A. What conversation?

Q. You said you had a conversation with Chidester about taking stock off; was that in the presence of anybody else?

A. I don't know who was present.

Q. Was anybody present but yourselves?

A. I can't say whether there was or not. I think we were in Comanche when we had that talk, or Granbury; I don't where exactly.

Q. How much extra stock was there on that part of the line, not including those used upon the line regularly every day; how much other stock?

A. We had a team that was hauling rock and working on the road, and then there was two or three extra horses at Concho.

Q. Was there any at Fort Worth?

A. Not that I know of.

Q. How did you get over the line?

A. I rode on the coach or stage.

60 Q. Was there any person else rode on the teams used by Chidester and Adams, people employed by Chidester and Adams on the route?

A. Yes, sir.

Q. Didn't you use horses in riding over the line sometimes?

A. I didn't use a horse.

Q. How did John Chidester get over the route?

A. On a coach.

Q. Always on a coach?

A. I don't know of him ever having gone over it horseback at all.

Q. Did you know a man by the name of Gallagher?

A. J. J. Gallagher. He was running a route from Fort Worth to Decatur.

Q. Do you know anything about what he had to do with the management of this line?

A. No sir; not while I was there. If he did it was at Fort Worth while I was on the road.

61 J. J. GILLIS, being recalled on the part of the plaintiff:

Examined by J. W. HOUSE, U. S. district attorney:

Q. Mr. Gillis, you stated in your examination day before yesterday that you worked for Mr. Chidester a certain length of time. Now, I will ask you how you came to quit the service of Mr. Chidester?

The COURT. The witness has already testified fully as to that and he need not answer.

(Exception taken.)

62 Plaintiff then read in evidence the following depositions:

A. G. GOFF, being duly sworn, testifies and says:

Q. 1. State your name, age, residence, and present occupation.

A. My age is twenty-eight years; Fort Worth, Texas; was connected with the revenue service of the United States up to a short time ago, and am doing nothing at present.

Q. 2. Where were you residing and in what occupation were you engaged in the month of July, 1878?

A. I was residing six miles east of Brownwood, Texas, up to the 1st of July, 1878; was driving stage for Bill Johnson. In the latter part of July, 1878, I went to work for Chidester, eight miles west of Brownwood. I was there about two months, and then went to driving for Chidester on this route. I got no pay during July and August, 1878.

Q. 3. What part of this route was John T. Chidester running?

A. He was running the route from Fort Worth, Texas, to Fort Concho. There the road connected with C. Bain & Co.; they run from Fort Concho to Mesilla.

Q. 4. What capacity were you engaged in with Chidester, and how long did you remain in his service?

A. I was driving, in the winter of 1878, from Colorado River to Concho. In the spring of 1879 my drive was lengthened sixteen miles east from Walthal. I continued in his service until M. R. Diver came to relieve Chidester. I continued with Diver till he sold out to Fields & Horn. I remained with them till the following March—I think this was in

63 1882—when I went to Little Rock and went to work for Cross & Diver. Was night watchman at the stable at the corner of 9th and Ringo streets. Stayed, perhaps, one month.

Q. 5. Did you have personal knowledge of the number of men and animals actually engaged in performing the service on this route or any part of it? If so, state between what points.

A. I did, between Coleman and Fort Concho, seventy miles; also from Brownwood to Coleman, thirty miles.

Q. 6. Please state the number of animals and men actually used between these points.

A. From Brownwood west to Fort Concho there was actually engaged in performing the service twenty-four animals, six drivers, and three hostlers. In addition to these there were two feed teams, composed of eight animals and one blacksmith. This was all the force on that part of the route.

Q. 7. Please state what increase, if any, there was in the number of men and animals after August 15th, 1878.

A. There was none that I know of. If there had been I would have known it, as I was on the line and had every facility of knowing, and no new stations were built after that.

Q. 8. State whether or not there was any change made in the number of animal and men on this part of the route after August 15th, 1878; and, if so, state what they were.

A. Yes; from Brownwood west what four-horse stock had been put on the route in the beginning of the service was taken off, and two-horse jerkeys put in their place, that is to say, they used two horses instead of

four. In the spring of 1879, when my drive was lengthened, they did away with one man between Comanche and Fort Concho.

64 Q. 9. What knowledge have you of the number of men and animals actually engaged in performing this service on any other portion of this route?

A. From Brownwood east to Forth Worth my knowledge is what I gained from riding over the road several times; from this knowledge I can make a pretty close estimate of the number of men and animals so engaged.

Q. 10. Please state the number as definitely as you can.

A. The actual number engaged was 64 animals, 8 drivers, and 8 hostlers, and 1 blacksmith. There was also J. T. Chidester and his two sons, Bill and John, who were acting as superintendents. J. J. Gillis acted as division superintendent for a time, but he quit, and no one was put in his place.

Q. 11. Was the number of men and animals on this part of the route increased any after August 15th, 1878, and if so, state how much?

A. No; not to my knowledge; I would have heard something of it if there had. They had the same number of stock there that they had before that time.

Q. 12. What rate of speed was driven on this route from Fort Worth to Concho, and did you drive any faster after August 15th, 1878, than you did before that time?

A. We aimed to make about five miles per hour. We had no orders to drive any faster after August 15th, 1878, than we had before. The only orders of this sort we ever had on the west end was to make all the time we could, and not to hurt our stock in order to give the drivers east of Comanche the advantage over heavy roads. These orders were given as much before as after August 1 th, 1878. We never knew anything about this expediting business, and knew no change between per-

65 forming the service before and after August 1 th, 1878. I was on the line and went over the western part of it very frequently before I commenced driving, and knew the rate of speed that was driven; they drove about as we did, and had the same eating stations.

Q. 13. What experience have you had in the staging and mail business?

A. I drove stage and carried mail five years.

Q. 14. How much of this time was on the route between Fort Worth and Fort Concho, or any part of it?

A. During all of the Chidester contract, part of the Johnson contract prior to Chidester's contract, and some after the expiration of Chidester's contract.

Q. 15. Please state what character of vehicles was used in conveying the mail on this route before and after August 15th, 1878.

A. They used four-horse Concord coaches from July 1st, 1878, until along in the fall following when they took off all the four-horse coaches west of Comanche and put on two-horse jerkeys. Comanche is about midway between Fort Worth and Fort Concho, and was a little nearer Fort Worth than Concho. A Concord carried nine passengers, and a jerkey carried five passengers, and afterwards they ran two-horse jerkeys between

Granbury, which is about thirty-eight miles west of Fort Worth, to Comanche, on alternate days. Granbury is about seventy miles east of Comanche.

Q. 16. What was the average weight of the mail carried from Fort Worth to Fort Concho?

A. I only know what I received on the part on which I drove. I never received a mail over three hundred pounds in weight, and coming
66 east we rarely had over twenty-five pounds. I had a good opportunity of knowing the weight of the mails, as in the summer of 1879, between Oak Vale and Fort Concho they put on a light spring wagon instead of the jerkey, and transferred the mail from the jerkey to their wagon. The average weight of the mail I received was between seventy-five and one hundred pounds—that is, west-bound mails.

Q. 17. Please state from your experience as a stage man and your knowledge of this route, what amount of men and animals were actually necessary to perform the service of conveying the mails between Fort Worth and Forth Concho during the Chidester contract both before and after the expedition?

A. In my judgment the mails could have been carried between these two points with one horse and a buckboard during the entire time of the Chidester contract, both before and after the expedition; that, is they could have carried the mail and driven five miles an hour with one horse to a buckboard, this would have been without carrying any passengers.

Q. 18. Will you state how many men and animals it would have required to perform this service in this way?

A. It would take fifty animals and thirty-five men, this would be giving them plenty of men for forage teams, blacksmiths, division superintendents, and all extra men they might need.

Q. 19. State what baggage was a passenger allowed to carry?

A. Sixty pounds.

Q. 20. Were any animals shot or killed by Indians or robbers under your personal knowledge?

67 A. There never was an animal shot or killed by Indians or robbers while I was in the service.

Q. 21. When the change was made from four-horse coaches to two-horse jerkeys, did that decrease the number of animals; and, if so, in what proportion?

A. From Comanche west it decreased them one-half, from there east not so much, because they used some four-horse coaches after that.

Q. 22. Is your statement previously made in this deposition as to the number of men and animals made with reference to the period after the four-horse coaches were taken off?

A. It was after four-horse coaches were taken off west of Brownwood, and before they were taken off east of that point.

Cross-examination:

Q. 1. You state in answer to interrrogatory 6, between Brownwood and Fort Concho there was actually engaged in performing the service 24 animals, 6 drivers, 3 hostlers, 2 feed teams composed of 8 animals, 2 men and one blacksmith, at the time you commenced driving for Chidester; name the number of animals at each station, give the name of the station and where the hostlers performed service.

A. At Brownwood there were four horses, two went east to Blanket Creek, twelve or thirteen miles, two went west to Mud Creek station about fifteen miles. There was a hostler at Mud Creek. At Mud Creek there were four horses and one hostler, at Blanket Creek there were four horses and one hostler.

68 Q. 2. State the number of horses and the number of stations and horses at each between Brownwood and Fort Concho?

A. There were four horses at Brownwood, there were four horses at Mud Creek, there were two horses at Coleman City, at Oak Vale there were four animals, at Colorado River there were four animals, at Willow Hole there were four animals, at Fort Concho there were no animals; I doubled back with the same team I drove in. There were only three hostlers on this drive. The eight animals engaged in hauling feed were not kept at any station, but camped out wherever night overtook them.

Q. 3. On what day did you commence driving for Chidester?

A. I do not know the day I commenced driving. It was after the 15th day of August, 1878.

Q. 4. In answer to interrogatory 8 you state that after the 15th of August, 1878, that the four-horse stock which had been put on the route in the beginning of the service was taken off. State at what time this change was made?

A. The change from four-horse coaches to two-horse vehicles was made some time in the fall. I don't recollect the exact date.

Q. 5. In answer to interrogatory ten, you state that the actual number of animals engaged between Fort Worth and Brownwood is 64; 8 drivers, 8 hostlers, and one blacksmith; state how you know this?

A. From my knowledge by riding over the road.

Q. 6. State if you know the number of men and animals employed in conveying the mails from Fort Worth to Fort Concho at the time you commenced working for Chidester.

69 A. About twenty-five men and one hundred animals.

Q. 7. Were there not more than 25 men employed between these points in the transportation of the mail?

A. I do not think there were more than twenty-five men. Did not count them and can not tell exactly.

Q. 8. In making the estimate of animals at one hundred between Fort Worth and Concho are you not counting simply the well horses in actual use?

A. In fixing the number of horses at one hundred? I mean by this that there were one hundred horses on the route that were used once in twenty-four hours. A team never lay idle *idle* over twenty-four hours.

Q. 9. Were there any horses at any of the stations except those that were called into service less than once in each twenty-four hours between Brownwood and Concho; if so, state the number?

A. There was no extra stock between Brownwood and Concho. Comanche was the headquarters, and when stock got sick or crippled we sent there for any horses we needed and they would take back the sick or cripples. There was a lot of horses kept at Comanche from which we drew, but I do not know the number. I do not include these horses in the estimate of one hundred.

Q. 10. In answer to interrogatory 16 you state that the average weight of the mail going west between Brownwood and Fort Concho to be 75 to 100 pounds; state how you know this?

A. I know this from handling the mail in changing from one wagon to another at Oak Vale.

70 Q. 11. You state in answer to interrogatory 18 that, in your opinion, the mail could have been carried from Fort Worth to Concho on a buckboard with one horse, and in answer to interrogatory 18 that fifty animals and thirty-five men would have been sufficient to have performed the service on the expedited schedule. Do you know anything about the weight of the mails going out of Fort Worth going westward at that time?

A. Not further east than Brownwood.

Q. 12. What is the character of road between Fort Worth and Brownwood during the winter and spring?

A. It is a rolling road and part of it is sandy. From Brownwood to Oak Vale the road is rolling; from Oak Vale to Concho it is dog towns; flat, very sticky, and heavy.

Q. 13. Does the portion of the road as described by you as being rolling ever get muddy during the winter and spring?

A. It gets muddy, but not so bad as if it was flat. There is sand enough in it to keep it from sticking.

Q. 14. Can you make five miles an hour over that road in the winter and spring with one horse and a buckboard?

A. Can do it easy enough with the stage stands as they were, from fourteen to sixteen miles apart.

Q. 15. Suppose it should turn out hereafter that the average weight of the mail out of Fort Worth was from twelve hundred to sixteen hundred pounds, could you make the time you have indicated with one horse and a buckboard between Fort Worth and Concho?

A. I wouldn't try it. I know nothing about the mails that went out of Fort Worth. I only know about the mail west of Brown-
71 wood, and this I could carry on a buckboard with one horse at any time while I was on that road.

Q. 16. In answer to interrogatory 21 you state that when the change was made from four-horse coaches to two-horse vehicles, the number of horses was decreased one-half from Comanche west, and not so much from there east. State if you can how far west the Texas and Pacific road had been completed when this reduction took place.

A. It was completed to Weatherford, thirty miles west of Fort Worth.

Q. 17. At what point on the railroad did you get the mail when the change was made from four-horse to two-horse vehicles?

A. At Fort Worth.

Q. 18. How do you know if you were not at Fort Worth?

A. There is a way-bill that accompanies each mail, and they were dated at Fort Worth.

Q. 19. State as near as you can the time at which the change was made from four-horse to two-horse vehicles between Brownwood and Concho.

A. I don't know the date. It was in the fall of 1878, in September or October, or thereabouts.

Redirect examination:

Q. 1. In answer to cross-interrogatory 7 you state that there were in actual use between Fort Worth and Fort Concho about one hundred animals and twenty-five men in conveying the mails. Do you mean in this statement to include the men and animals used in drawing the
72 four-horse coaches and two-horse hacks carrying passengers and all other matter that went over the route, or do you mean that this number was used simply for carrying the mails alone?

A. It included everything from feed teams up.

Q. 2. Is your statement based on your judgment that the mail could have been carried from Fort Worth to Fort Concho with one horse to a buckboard, based on the estimate that the mails out of Fort Worth westward would average about the same as that received by you at Brownwood or not?

A. It was based on the idea that they would deliver about as much way mail as we did.

Q. 3. Was the effect of this service on your stock exhaustive or not?

A. It was not.

Recross examination:

Q. 1. During the three years and more you were on the road, do you mean to be understood as saying that the stock did not die or get crippled?

A. No. At one time there was a disease called blind staggers that killed about two-thirds of the stock. This disease was general all over the country, and did not arise from anything peculiar to this service. I did not know of any stock getting crippled during the time I was on the road.

Q. 2. How do you reconcile the concluding portion of your answer to the preceding question with a statement made in the course of cross-examination, wherein you have stated that when stock got disabled or crippled they were sent into Comanche and other stock sent out
73 in lieu thereof?

A. Very often a horse got sick or off his feed, or have a sore shoulder. We would send him to Comanche for a rest.

Q. How frequently did this happen?

A. I don't think it happened more than half a dozen times during two years between Brownwood and Fort Concho, a distance of one hundred miles.

And further deponent saith not.

A. G. GOFF.

J. J. GALLAHER, being duly sworn, states:

My name is J. J. Gallaher; I live at Weatherford, Parker Co., Texas; am about fifty-five years of age, and am by occupation a stage contractor; I have been engaged in the stage business and carrying United States mails for about thirty-five years; I was working for J. T. Chidester, contractor, on mail route from Fort Worth, Texas, to Yuma, Arizona, in July, August, September, and October, 1878. I went with J. T. Chidester when he first went to stock the route between Fort Worth, Texas, and Concho, Texas, in June, 1878. After the 6st. of July, 1878, until

October, 1878, I was at Forth Worth starting the mail out and buying feed for him. We left Forth Worth to stock the road from Fort
74 Worth to Concho, when the route was first started on or about the 20th of June, 1878, with one hundred and thirty head of horses and mules. This was all the number of animals that were placed on the route at that time; I don't know exactly the number of men employed on the route, but think there were twenty-five at that time, that is, on the 1st of July, 1878. I do not remember the exact date when the service was expedited from a seventeen-day to a thirteen-day schedule from Fort Worth to Yuma. I think it was some time in August, 1878. There was no increase of men or stock that I know over what there had been before the expedition. If there had been an increase I would have known of it I think. I know there was no increase between Forth Worth and Granbury, which latter place is forty miles west of Fort Worth. I was familiar with the amount of the mail that was carried on this route out of Fort Worth during the period I was employed. In order to carry the mail alone one horse and a buckboard would have been sufficient. After I quit the employment of Chidester I was still engaged in running the mail lines between Fort Worth and Cleburne, Texas, and saw frequently the mail that went out daily on the Chidester route. I saw no increase in the mail after I quit Chidester till the line was changed to Weatherford, Texas, and I was not familiar with the line after it was moved to Weatherford, Texas. I am of the opinion that in order to carry the mail alone from Fort Worth, Texas, to Fort Concho, Texas, on a schedule of thirteen days schedule over the entire route it would have required thirty-two head of horses; this would be with one horse and a buckboard, which I think would have been sufficient to carry the mail alone. In order to expedite a mail service from a schedule of three and one-half miles an hour to a schedule of four and six-tenths miles per hour I am of the opinion that it would not require an increase of men or of horses on
75 the service, and the reason I think that no increase of men or horses would be required is that a horse being driven fifteen miles per day at the rate of three and one-half miles per hour could just as well stand to be driven that distance at four and six-tenths miles per hour, because a man hardly ever will drive a team at less than five miles an hour in driving a stage. When Chidester first stocked the route he stocked four the whole on both sides of the road as far as Comanche, for four-horse coaches. From Comanche to Concho he stocked one side for four-horse coaches. There was a change made about the 1st of October, 1878. He pulled off from four horses to two horses between Comanche and Concho. I know of no other changes being made by Chidester.

Cross-examination by Judge McCLURE:

Q. During the course of your examination you have had some papers in your hand looking at them upon which there is some writing and figures; state what the writing and figures are about.

A. I have the amount of horses or teams between Fort Worth and Concho when the stock was first put on the road on one paper, and on the other the amount of men that was put on the route. The first paper shows eight teams of four horses each from Fort Worth to Granbury, then four teams of four horses each from Granbury to Stephensville, Texas, then

four teams of four horses each from Stephensville to Comanche, Texas, and four teams of four horses each from Comanche to Coleman, Texas, two teams of four horses each from Coleman to Colorado River, and two of two each and two teams of four each and two each from Colorado River to Comanche. The other paper shows one hostler at Fort Worth, ten miles from Fort Worth there was one hostler, twenty miles there was another, thirty miles out there was another; there was one hostler between
76 Granbury and Stephensville, there was one at Stephensville, then one fifteen miles out from Stephensville, then one at Comanche, then one fifteen miles out between Comanche and Coleman, then one at Coleman, then one fifteen miles out from Coleman; then there was two at Colorado River, then there was one at Concho. These were all the hostlers; there were ten drivers in all.

Q. Were there any extra teams and teamsters hauling feed and grain? If so, how many?

A. There were two four-mule teams and a teamster to each, to haul feed and grain.

Q. Were there any other person or persons employed on the line in any other capacity than those above named? If so, name them and in what capacity. State how many and what they did.

A. His son, J. T. Chidester, jr., was general superintendent on the road, and his son, William Chidester, was assistant superintendent; his brother, D. Chidester, was forage-master, and looked after getting feed in on the road. Then he had John Gillis on the road as a road agent. I was also employed at Fort Worth to buy feed, to see that mails got out, to make up drivers, &c. There was a harness-maker and repairer at Comanche named George Stinson; then there were three blacksmiths and one wood workman.

Q. During the time you were at Fort Worth seeing to putting the mail on the coaches, state whether or not it was so bulky and heavy it could not be put in the boot of the stage and on its top, and whether or not it did not at times have to be loaded in the body of the coach.

A. I never saw the mail that heavy. I don't think I ever saw exceeding five hundred pounds of mail go out at one time.

77 Q. You have stated in your examination-in-chief that you were of the opinion that the mail between Fort Worth and Concho could have been carried on buckboards with thirty-two head of stock at a speed of four and six-tenths miles per hour for the whole distance. Now state the distance between Fort Worth and Concho.

A. They call the distance two hundred and forty miles.

Q. How many stations would you have had in that distance and how far apart to have performed this service in the manner you have indicated?

A. I would have to have sixteen stations in all, they would have to be about fifteen miles apart.

Q. Will 32 animals perform that service daily at four and six-tenths miles per hour, with a buckboard and the mail?

A. Yes; thirty-two horses would do the service.

Q. Now, I understand you to say it is no more severe for an animal to pull a buckboard at the rate of four and six-tenths miles an hour than it

would be at three and a half miles per hour. Am I correct in this, if not state wherein I am in error?

A. Any good horse will stand the work for four and six-tenths miles, or five per hour for three hours per day.

Q. Will not a horse go eight hours per day at the rate of three and a half miles per hour over that route with less injury than to perform the service of fifteen miles in three hours?

A. No; he would be in the stable curried, fed, and rested before the other horse would be through his trip of twenty-eight miles and ready to make another trip. I would rather drive a horse fifteen miles in three hours than to drive one eighteen miles in four hours.

78 Q. Why did you leave Chidester's employ?

A. I was through buying feed there and my own business required my attention.

Q. Have you stated all the reasons?

A. Yes.

Redirect examination by Mr. WILLIAMS:

Q. Were the number of men employed as superintenderts, blacksmiths, harness-makers, road agents &c., as stated in your cross examination, reduced by Mr. Chidester? If so, state when and to what extent.

A. I don't think there was except my place; no one took my place.

Q. In estimating the number of animals required to perform this service with one horse and a buckboard did you include forage, teams, and any extras that might be needed? If not, state what additional number, if any, would be needed for these purposes.

A. I stated only what would be needed in actual service in carrying the mail. I think four animals would do for forage team, also a team for the agent or superintendent. Then, by rights, a man should have about four extras along the route.

Q. You have stated in your cross examination that you neves saw exceeding five hundred pounds of mail going out of Fort Worth on this route at one time; state, if you can, about the average weight daily of this mail.

A. I should not think it would be over four hundred and fifty pounds. I don't know exactly.

79 Q. In estimating that this service could have been performed with one horse to a buckboard on a schedule of four and six-tenths miles per hour, did you take into calculation bad roads, stoppages, &c., and the necessity of travelling at a more rapid gait over good roads to make up for time thus lost in order to make four and six-tenths miles per hour over the entire route?

A. Yes, sir; I take that all into consideration.

Q. Do you know why Mr. Chidester placed so large a number of animals on this route when he stocked?

A. Yes, sir; he said he expected to have a heavy travel of passengers and express over the route. And further deponent saith not.

J. J. GALLAHER.

The time and all matters of form to the taking of this deposition is waived and the same may be read or used at the trial of this cause but subject to any and all legal exceptions for competency, relevancy, or immateriality, this March 26th, 1886.

JOHN MCCLURE,
Atty. for Defendants.
J. E. WILLIAMS,
For Plaintiff.

Opened and published by rule of court March 30th 1886.
RALPH L. GOODRICH, *Clerk.*
By W. P. FEILD, *D. C.*

80 A. J. BOBO, a witness introduced on the part of the plaintiff, being duly sworn, deposes and says:

Question No. 1. State your name, age, and present occupation and residence.

Answer. A. J. Bobo; 41 years old; stage man, Colorado stage-crossing in Texas. I have been continually engaged in stage business since fall of 1868.

Question No. 2. Were you ever engaged in the employ of John T. Chidester? And, if so, state where and when, and in what capacity.

A. 2. I was; from Fort Concho to Walthall from the 1st day of July, 1878, to about 12th of August, as a stage-driver, carrying the United States mails, at which time I went to Comanche, at which place I remained in his employ up to the 10th of December, 1878, driving the stage and carrying the mails, at which time I quit his employ.

Q. No. 3. Do you know the number of animals and men that were in actual use carrying the mails over this route from Comanche to Fort Worth? If so, state the total number of each.

A. No. 3. I do. There were four four-horse teams from Concho to Walthall, two four-horse teams from Walthall to Oak Vale, from Oak Vale to Comanche, one side four-horse teams and the other side two-horse teams, a total of forty-two horses. From Oak Vale to Comanche there were twelve horses on one side and six horses on the other side, this made the total of the forty-two. There were nine drivers and two hostlers and one blacksmith and two hostlers at Comanche, and one division superintendent. This force was in operation the 1st day of July, 1878.

Q. No. 4. Was this force changed or altered any after that date? And, if so, state where and to what extent.

81 Answer to 4. Yes, sir; between the 23rd of October and the 1st of November it was cut down to two-horse stock from Comanche to Concho. I do not know when the expedition went into effect.

Q. No. 5. Was the number of men and animals in use on this route between Concho and Comanche increased any after the first day of July, '78, during the time you remained there?

Answer. No, sir. They put in Willow Hole, but decreased the drivers and stock.

Q. No. 6. What amount of mail was carried over this part of the route daily?

Answer to 6. The mail was very light; I will say seventy-five pounds.

Sometimes we would not have ten pounds and sometimes have a pretty good mail.

Q. No. 7. Did you increase the rate of speed at which you drove after the 15th of August, 1878?

Answer to 7. I was driving all the time and never noticed any increase. We were making from five to six miles per hour all the time.

Cross-examination by JOHN MCCLURE, for defendants:

Q. No. 1. Why did you leave Chidester's employ?

Answer. I quit because I wanted to go to Arizona. Chidester told me I was to have the customary wages of the country, but when he came to settle with me he cut me down to $25 per month for a four-horse team, and $20 per month for a two-horse team. I did not quit on that account; I intended to quit anyhow. Dan told me he was an old rascal. He is an old rascal, and every body knows he is. These statements I desire to retract.

82 Question No. 2. Are you and Chidester on friendly terms? And state if it is not true that you dislike him very much.

Answer to No. 2. Oh, yes; nothing wrong with me and old Chidester. I've got nothing against old Chidester, but I don't think he is a man of his word. He agreed to give thirty-five dollars per month.

Question No. 3. What extra stock, if any, was at Comanche?

Answer. Not a hoof that I know of. After they drew off the four-horse stock they collected at Comanche, I don't know how many.

Question No. 4. What, if anything, do you know of the stock and men between Comanche and Fort Worth?

Answer. I don't know anything about it. Further the deponent saith not.

A. J. BOBO.

JAMES DAVIS, a witness introduced on the part of the plaintiff, being duly sworn, deposes and says:

Question No. 1. State your name, age, and present occupation, residence.

Answer. My name is James Davis; age, forty-six years last October; stage-driver; residence, Abilene, Texas.

Question No. 2. Were you engaged in the employ of J. T. Chidester in carrying the mails on the route between Fort Worth and Yuma? And if so, state in what capacity and between what points.

Answer. I was a driver between Fort Worth and the Brazos River. The station was called McCreary's. It was a farm house, and was about six miles from Granbury.

83 Question No. 3. When did you commence service on this route, and how long did you remain?

Answer. I commenced about the 11th of July. I can't remember the year, but it will be eight years this coming July; it was the first year he got the contract. I remained as long as he stayed here; I don't remember how long, but until he sold out to Adams, and then I worked for Adams three or four months.

Question No. 4. Do you know the number of men and animals engaged in this work, or any part of it, when you first went to work? If so, state the number of each.

Answer. Yes, sir; I know the number of each as far as I drove. There was six four-horse teams—three to each driver—two drivers, three hostlers, and an office agent in Fort Worth, who attended to what business was in his line for the whole route. This was between Fort Worth and Brazos River.

Question No. 5. Was this number increased any afterwards; and if so, state when and how much?

Answer. No, sir.

Question No. 6. Do you know whether the number of men and animals in use on this route from Fort Worth to Fort Concho was increased any after it was first stocked in July, 1878? and, if so, state to what extent.

84 Answer. It was never increased in stock. It was increased in men the following winter, in cold weather. They put a driver to every team west of the Brazos to Comanche; what they done beyond there I don't know.

Question No. 7. What was the average rate of speed at which you drove?

Answer. Six miles an hour; we always drove that way from the time I commenced driving until I quit. After the railroad reached Eastland we did not have to make that time, but did it usually.

Question No. 8. What was the average weight of the mail daily, going out to Fort Worth over this route?

Answer. I should think it averaged five hundred pounds.

Question No. 9. How long have you been engaged in the stage business, carrying the United States mails?

Answer. I have not done that work all the time, but that has been my business for the last twenty-three or twenty-four years. I came to this country in July, 1878, and have been driving ever since, but drove one year of the time in New Mexico.

Question No. 10. State, in your judgment, if the mails only carried over this route out of Fort Worth could have been carried with a less number of animals than were used by Chidester over that part of the route over which you drove?

Answer. Yes, sir; I think they could. If a man did not carry anything but the mails he could take one good American horse and a
85 buckboard and have carried it, or could have carried it, with two Texas ponies and buckboard, and he could have made the same time on the same length route that we did.

Question No. 11. Could the mails have been thus carried over this route from Fort Worth to Fort Concho?

Answer. They could so far as I went, and I don't know of any reason why they could not the whole distance, for they were lighter.

Question No. 12. How did the mails on your part of the route going east compare with those going west?

Answer. They were not near so heavy going east, for we had no paper mail that way.

Cross-examination by JOHN MCCLURE, attorney for defendant:

Question No. 1. State where you resided for ten years previous to your commencing to drive for Chidester.

Answer. I resided for six of the ten years in Grand Rapids, Michigan, and four years at Monroe, Louisiana.

Question No. 2. In whose employ were you during the time you were at Grand Rapids, Michigan, and while at Monroe, La.?

Answer. I worked for Cook & Johnson, for S. S. Ball, and Skinner (I don't know his first names), at Grand Rapids; also worked two summers for J. E. Warner, who lived at Lansing, Mich.; I travelled with a circus for him. I worked for Henry Dobson at Monroe, La., but was sick part of the time.

86 Question No. 3. Did you at any time during the time you were driving into Fort Worth or out of it have more than four horses to the coach, and if so, how frequently did this occur?

Answer. I never used but four horses to the coach.

Question No. 4. Were there not times going out of Fort Worth when the boot of the stage and its top were not sufficient to hold the mail, and when some of it had to be placed on the inside?

Answer. There never was on my day out of there.

Question No. 5. How many extra head of stock, if any, were employed in hauling forage to the stage-stands?

Answer. It kept two four-horse teams after the first year; the first year they bought their grain delivered at the stations.

Question No. 6. How many extra animals, if any, were kept on hand to supply the place of such as were disabled or lamed?

Answer. None as far as I drove.

Re-direct examination:

Question No. 1. How often did you drive out of Fort Worth?

Answer. I drove out every other morning; it was a seven-times-a-week route.

87 Question No. 2. Over what part of this route did these grain teams referred to in your cross-examination haul?

Answer. When we could not keep enough grain at the Brazos River one would go to town; these were all the grain teams between Fort Worth and Concho; the grain at the Brazos was carried out in the coaches.

Question No. 3. How many passengers could the coaches that you used carry?

Answer. We run nine passenger coaches on good roads, and when the roads were bad we used six passenger mud wagons. Further the deponent saith not.

JAMES DAVIS.

Subscribed and sworn to before me this 29th day of March, A. D. Gee—.

[SEAL.] F. B. HUSTON,
Notary Public in and for Taylor County, Texas.

Time and form in taking this deposition and forwarding the same waived, all other legal exceptions are saved, and subject to this the same may be read or used as evidence.

JOHN MCCLURE,
Attorney for Defendant.
J. E. WILLIAMS,
Att'y for Plaintiff.

88 H. D. BOWMAN, being sworn on the part of the United States, deposes and says:

Q. 1. State your name, residence, and present occupation.

A. 1. My name is Henry D. Bowman; age is twenty-six; residence, La Messilla, N. M; my occupation is that of a land attorney.

Q 2. Were you ever engaged in the La Missilla post-office; and if so, when and in what capacity?

A. 2. I was first employed by B. W. Southwick as assistant or deputy postmaster at La Messilla in the latter part of the year 1878, or the first part of 1879, and had charge of the office up to August 14th, 1879.

Q. 3. Were you during this period familiar with the amount of mail received and forwarded over what was known as the Fort Worth and Yuma route?

A. 3. Yes, sir, I was.

Q. 4. State how the mail was received and forwarded over that portion of this route going south and east by way of El Paso?

A. 4. On alternate days a one-horse sulkey; on the others by a two-horse jerkey.

Q. 5. What was the average amount of mail received and forwarded over this portion of the route?

A. 5. It averaged from twenty-five to fifty pounds.

Q. 6. Do you think fifty pounds the highest mail that went over this route?

89 A. 6. I think it was.

Q. 7. How was the mail received and forwarded over that portion of this route lying west of La Misilla?

A. 7. By a coach, buckboard, or horseback alternately; that is to say, on alternate days the coach went out, then on the other days the horse or buckboard, owing to whether there were passengers or not. It was a two-horse buckboard.

Q. 8. Did this coach to which you have referred go over the route for the purpose of carrying the mails only, or was it run for passenger traffic?

A. 8. I don't know what it was for.

Q. 9. Was there any difference in the weight of the mails between the days when it was carried on horseback or in a buckboard and when carried in a coach which rendered it necessary to send out the coach for the purpose of carrying the mails only?

A. 9. Yes, sir; there was a decided difference in the weight of the mail sent out on the coach days because it connected with the coach from the north, but as whether it was that difference which caused the coach to be sent out or not I can't say, but I will say it could not have been carried on a horse.

Q. 10. Did you not also receive a daily mail from the north which connected with this route going west?

A. 10. Yes, sir.

Q. 11. Did you send out all the mail going over this route either way each day?

90 A. 11. I believe I did.

Q. 12. Do you know the amount of passenger traffic over this route west of La Misilla?

A. 12. It was heavy coming into and going out of La Misilla.

Q. 13. Was connection always made at La Misilla between carriers to and from the west with those to and from the east?

A. 13. I can't speak positively as to that, but I don't think it was always made.

Cross-examination:

Q. 1. Was all the mail upon the coach or buckboard opened and examined at La Misilla?

A. 1. Yes, sir.

Q. 2. What kind of animals were employed in the carrying of the mails on this route to and from La Misilla?

A. 2. Horses and mules.

Q. 3. Are you familiar with the amount in weight which is usually placed upon pack animals; if so, state it.

A. 3. I am not.

Redirect examination:

Q. 1. Were sacks received at your office, tagged to other points, opened by you?

A. 1. No, sir. Southwick usually opened the mails or was there to supervise it.

91 And further deponent saith not.

HENRY D. BOWMAN.

Subscribed and sworn to before me this 1st day of April, A. D. 1886.

[SEAL.] AIKMAN WELCT,
Notary Public, Dona Ana Co., New Mexico.

Miss IDA M. JONES, being duly sworn on the part of the United States, deposes and says:

Q. 1. State your name, age, and residence.

A. My name is Ida M. Jones; residence, Las Crusus, N. M.; of lawful age.

Q. 2. Where were you residing and in what employment were you engaged in January, A. D. 1881?

A. 2. I was residing at La Masilla, N. M., and took charge of the post-office there Jan. 22nd, 1881, as assistant postmistress. I became postmistress February 19, 1881. I remained in that position until January, 1884, when I turned over the office to Mr. Demetrio Chavez, the present postmaster.

Q. 3. Were you familliar with the amount of mail received and forwarded over the Fort Worth and Yuma route, east of La Misilla by the way of El Paso; and if so, state the amount.

A. 3. Yes, sir. It was never more than two pouches and sometimes not that much; that is, to the best of my recollection. They were not the largest sized pouches, nor were they of the smallest size.

92 Q. 4. Was this mail such as you could have handled yourself?

A. 4. Yes, sir.

Q. 5. State, if you know, how the mail was received and forwarded over this route west of La Misilla?

A. 5. It was received by a four-horse coach and buckboard alternately. I think the buckboard used only one horse. I don't know how far they went that way; it might have been only to the first station.

Q. 6. Did you forward daily all the mail going out of your office over this route each way?

A. 6. Yes, sir.

Cross-examination:

Q. 1. State if all the mail which came to La Misilla over the route from Fort Worth to Yuma was opened and examined at that office?

Yes, sir.

Q. 2. Were there any through sacks tagged or labelled to points westward and beyond La Misilla?

A. 2. No, sir.

IDA M. JONES.

Subscribed and sworn to before me this 1st day of April, A. D. 1886.

[SEAL.] AIKMAN WELCH,
Notary Public, Dona Ana Co., New Mexico.

Time, form, and the mode of these depositions is waived, all legal exceptions are saved, and subject to such this deposition may be used at the trial as evidence.

JOHN MCCLURE,
Att'y for Defendants.
J. E. WILLIAMS,
Att'y for Pl'ffs.

93 F. H. WAGNER, a witness on the part of the plaintiff, being duly sworn, deposes and says:

Q. 1. State your name, residence, and occupation.

A. 1. F. H. Wagner; age, thirty; residence, El Paso, Texas, and I am a clerk in T. & P., and Southern Pacific Railroads, in the freight department.

Q. 2. Had you any means of knowing how the service of carrying the United States mails over that portion of what was known as the Fort Worth and Yuma route, between Fort Concho and Misilla, was performed; and, if so, state what your means were and for what periode?

A. 2. I was located from the 1st of July, A. D. 1880, along the stage route from Fort Concho to El Paso until the 26th of November following; during this period I saw the mail going backwards and forth; I was located for nearly a month at Fort Davis during this period. I was at Eagle Springs for two or three weeks. I was at Fort Quitman for two or three weeks. These points were stage stations. I saw the mail passing to and fro while at these stations. After I left Fort Quitman I came to El Paso for a month and a half to two months, and then went in the post-office as a clerk. I was in the post-office about two months. I went into the post-office about the 1st of February, 1881. I think that was the time, but I am not positive.

Q. 3. State how the service was performed during the period you have referred to in your last answer.

A. 3. It was performed by buckboards with two mules, and also by hack with two mules, a three-seated hack. From Fort Quitman to Ysleta there was a single horse and sulky that ran every other day. I think the one-

horse rig did not run to El Paso. It may have run to El Paso,
94 but I am not positive. I am positive as to the two mules at Eagle Springs, for I had little to do and I sometimes helped hitch them to the wagon. They did not run any four-horse coaches over the road during this period, and of this I am positive.

Q. 4. State if you know the amount of mail that was carried over this portion of the route during this period?

A. 4. I can't be very positive as to the amount of mail carried over this route, but it was very light. I would not judge that it would exceed thirty or forty pounds a day. It has been so long that I can not exactly recall the amount carried.

Cross-examination:

Q. 1. Do you pretend to say that the mail coming from the east on its arrival at Fort Davis did not weigh more than fifty pounds?

A. 1. No, sir; I do not pretend to say anything about the weight of the mail on its arrival at Fort Davis.

Q. 2. Do you pretend to say that the mail arriving from the east at Fort Quitman did not weigh more than thirty or forty pounds?

A. 2. No, sir.

Q. 3. At what point along the line of the route between Concho and El Paso was the mail reduced to thirty or forty pounds?

A. 3. I don't know. I don't know that it was reduced.

Q. 4. Did you see the mail opened at any point along this portion of the route?

A. 4. At no point except El Paso.

Q. 5. Did you ever at any time look at or examine the pouches
95 with a view of estimating the weight of the mail?

A. 5. No, sir.

Q. 6. You have stated in your examination in chief that you are positive that from July 1st, 1880, until the November following that no four-horse coaches were used in carrying the mail between Concho and El Paso, state why you are positive.

A. 6. Well, I am not positive from Fort Concho to Fort Davis that no four-horse coaches were used, but I am positive that from Fort Davis to El Paso only two-horse vehicles were used. From the fact that I saw them time and time again at different points along the line from Fort Davis to El Paso. I got my mail at these different stage stands; was acquainted with several of the drivers and station agents, and I saw them every day or two; I was staying around these stations; knew they were mail pouches and could see they only had two horses.

Q. 7. You have stated you were frequently about the stables at the different stations and sometimes assisted in hitching the mules to the wagons; state how many animals there were at Eagle Springs.

A. 7. I don't remember exactly, I think, though, there were five or six mules kept at the stage stand there. I think there were about the same number, five or six or eight. At Fort Davis I don't know how many there were.

Q. 8. Can you state the number at any other station; if so, state it?

A. 8. I think there were four or five kept at Van Horn and perhaps the same number at El Muerto, though I can't remember.

Q. 9. Was thirty or forty pounds of mail all that came to El Paso from the east during the period you have mentioned?

A. 9. Well I can't answer positively in regard to that for I can't remember.

96 Q. 10. Was not El Paso at the time you have mentioned a point from which mail was sent into New Mexico?

A. 10. I think it was; that is, some mail went by here.

Q. 11. Was not all the mail which reached Fort Quitman and Fort Davis carried over this route?

A. 11. No, not all of it. At least I should not think so. Some mail went to Fort Davis from Presidio Del Norte out of Mexico. At least I should think, as the mail was carried between Fort Davis and Presidio Del Norte on horseback.

Q. 12. Is it not a fact that much of the wearing apparel of the officers at these two forts reached them through the mails during the time you have mentioned?

A. 12. I can't say; I can't remember.

Re-direct examination:

Q. 1. Can you state whether the mail received from the east at El Paso during the period you were in the post-office was heavy or light?

A. 1. I should say it was light. And further deponent saith not.

F. H. WAGNER.

Subscribed and sworn to before me this the 22nd day of April, A. D. 1886.

[SEAL.] A. G. FOSTER,
Notary Public in and for El Paso County, Texas.

Time, form, certificate, mode of transmission in this deposition are
97 waived. All other legal exceptions saved and subject to the same.

This deposition may be read in evidence in the trial of the case of the United States v. John T. Chidester, et al., pending in the circuit court for the eastern district of Arkansas.

JOHN MCCLURE,
For Defendants.
J. E. WILLIAMS,
For Plaintiffs.

THOS. J. BULL introduced on the part of the plaintiff, being duly sworn, deposes and says:

Q. State your name, residence, and present occupation, and age.

A. Thomas J. Bull; age, fifty-nine years; occupation, merchant, and reside at Mesilla.

Q. Were you at any time connected with C. Bain & Co., transporting U. S. mail between Fort Concho and Mesilla, over what is known as the the Fort Worth and Yuma route? If so, state where and in what capacity.

A. I acted as their agent for them at this place but had no interest with them, and so continued from the first of July, 1878, until they ceased to perform the service.

Q. Please state how the service was performed on this portion of the route in and out of Misilla.

A. It was carried part of the time in a two-horse hack and part of the time by a one-horse buckboard and some of the time on horseback,
98 but most of the time with two-horse hacks and one-horse buckboard, alternating, I think.

Q. Was anything else carried beside the mail? If so, state what.

A. Yes, sir; passengers and express matter.

Cross-examination:

Q. Were four horses used any portion of the time in and out of Mesilla during the time you were acting as agent for C. Bain & Co.?

A. I think not. They may have run a few trips about the time the railroad came in here carrying passengers between here and El Paso.

Q. Are you positive that during the latter part of 1878 that the mail was not carried into Mesilla by C. Bain & Co. in four-horse coaches on one day and two-horse hacks on the day following?

A. I am pretty positive it was not. It may be possible that a four-horse coach may have come in once or twice but I am very sure the mail was not carried that way.

And further deponent saith not.

THOMAS J. BULL.

Subscribed and sworn to before me this 21st day of April, A. D. 1886.
[SEAL.] W. J. JOBLIN,
Clerk 3rd Jud. Dist. Ct.

Time, form, certificate, mode of transmission, and official character of officer are waived, all their legal exceptions are saved and subject to the
99 same. This deposition may be read in evidence on the trial of the case of the United States against John T. Chidester and Logan H. Roots.

JOHN MCCLURE,
Att'y for Defendants.
J. E. WILLIAMS,
Att'y for Plaintiff.

ELDRIDGE G. BENTON, introduced on the part of the plaintiff, being duly sworn, deposes and says:

My name is Eldridge G. Benton; I live about two and a half miles from Las Crusas; age, sixty-three years; am a farmer.

In the latter half of 1878, and continuing until Bain & Co. ceased to carry the mail between Concho and Mesilla, I was employed as a clerk for Mr. Bull and attended to his business as agent for C. Bain & Co. I know the manner in which the service of carrying the mail in and out of Mesilla by Bain & Co. was performed. They first started in with a four-horse coach and made four and five trips not exceeding two weeks, and then they run it with one horse and a sulkey and on horseback, alternating three times a week, and the balance of the time with two-horse hacks. The hacks carried passengers and express when offered. I saw the mail sacks every day as they came in and went, but took no notice of what they would weigh. I would think if nothing but mails had been carried the service could have been performed with a buckboard and one horse and made the schedule time.

Cross-examination:

I do not know the schedule time on this route.

100 Re-examination:

With stations not over twenty-five miles apart a horse could have carried this mail and made five miles per hour.

Re-cross:

A horse could perform this kind of service for a year if properly cared for. And further deponent saith not.

ELDRIDGE G. BENTON.

Sworn and subscribed to before me this 21st day of April, 7, $, 1886.

W. J. JOBLIN,
Clerk 3rd Jud. District Court.

This deposition may be read in evidence, subject to the agreement attached to deposition of Thos. J. Bull.

JOHN MCCLURE,
Att'y for Defendants.
J. E. WILLIAMS,
Att'y for Plaintiff.

GEORGE W. WILSON, a witness for the plaintiff, being duly sworn, deposes and says:

Q. State your name, age, residence, and occupation.

A. My name is George W. Wilson; age, forty-four years; residence, Marfa, Presidio County, Texas; occupation, saloon-keeper.

101 Q. Were you engaged in the employ of C. Bain & Co., in carrying the U. S. mail over any portion of what was known as the Fort Worth and Yuma route; and, if so, in what capacity, between what points, and for what period?

A. I was in the employ of C. Bain & Co., driving stage between Pecos and Leon Holes—this is east of Fort Davis—July, August, September, and October, 1878; for a month of this period, I drove in and out of Fort Davis east.

Q. State in what manner the mails were carried during this period over this part of the route.

A. The first month they tried to make a trip and a half per week, with a four-horse coach out of 7 times a week. Afterwards it was dropped down to a trip a week with a four-horse coach. The balance of the time it was carried by buckboard and two mules.

Q. State if you know the amount of mail carried to and fro over this portion of the route during this period.

A. It averaged forty pounds over and above paper mail, eighty pounds altogether going west; going east it would not weigh over fifteen, outside the sack.

Q. Was anything else besides mail carried; if so, state what?

A. Not to my knowledge, with the exception of a little express matter. The passenger travel was very light; not more than three a week.

Q. Was the rate of speed at which you drove ever increased during your service on this route?

A. Not to my knowledge; it was supposed to be six miles an hour; never made it.

Q. Was the number of men and animals in service on the route during this period ever increased?

A. I don't know; I don't know how many they had to start in with.

Q. At what rate of speed did you drive?

A. On an average of about four miles an hour in and out; that was all I did make.

X-examination:

Q. Why could you not make more than four miles an hour?

A. We did not have the stock to do it; did not have sufficient number to do it.

Q. State the distance between stations.

A. One thirty-mile route from Fort Davis to Barela Springs, one forty-five mile route from Barela Springs to Leon Holes. I only had eight head of stock to myself on that route. I do not know what stock the others had. I only drove one trip a week with a four-horse coach.

Q. Can you not drive a horse, or your team at a rate faster than four miles an hour on the station you were driving?

A. Yes; you can; you might do it three or four trips, but you can't do it more than three or four trips; they would let down in the road.

Q. Why did you quit?

A. Because I was fired. Mr. C. Bain himself came up the road with two negro whores. Mr. Warner was coming up the road to take charge of the upper end. Mr. Bain said he wanted to be at Davis at five o'clock. I told him I would try to make it. I told him to stop there
103 at Webster's; the agent he told me it was twenty minutes past five. I both trotted and ran them from there to the post-office. I put them on a dead run; I told him they were his, not mine. I did not get more than six inches from the door; he fired me there; I was tired of driving in an Indian country anyhow. I drove the stock from the post-office to the stable, and turned over the stock two weeks afterwards.

Redirect:

Q. Did you drive anything but a four-horse coach?

A. I did not. Further deponent saith not.

GEORGE (his mark) W. WILSON.

Subscribed and sworn to before me this the 23d day of April, A. D. 1886.

[SEAL.] W. J. LAMPERT,
Clk. Dist. Court, Presidio Co., Tex.

F. W. HARWOOD, a witness for plaintiff, being duly sworn, deposes and says:

Q. State your name, age, residence, and occupation.

A. F. W. Harwood; age thirty-two; residence, Marfa, Presidio County, Texas; occupation, clerk for sheriff, and tax collector.

Q. Were you at any time in the employ of C. Pain & Co. carrying the U. S. mails over any portion of what was known as
104 the Fort Worth and Yuma route; if so, state in what capacity, between what points, and for what period.

A. I was employed by them as driver. I also kept station for them

part of the time, most of the time between Fort Davis and Van Horn. I drove on other routes also between Fort Davis and Ysleta. I kept El Muerto station about three months. I kept Quitman station about one month. I kept Barela Springs station a month or so; I don't remember exactly how long. I began in July or August, 1878, and I quit in May or June, 1879. I went to work again for them in the fall of 1879. I think I worked a couple of months. I quit then for good. I was keeping station the last time I worked for them, Barela Springs station.

Q. State in what manner the mails were carried over this portion of the route during this period.

A. They ran a four-horse coach, I think, once every five days. This was running from Fort Davis west; the balance of the time buckboards with two mules, hacks, all kinds rigs. They discontinued the four-horse coaches, I think, during the time that I was away, before I quit finally. From Quitman up to Ysleta, and perhaps to El Paso, they used one mule or horse sulkies. They ran a two-horse hack one day and a sulkey next day. I drove one of those sulkeys two or three trips.

Q. Was the rate of speed at which you drove ever increased?

A. No; there was no general increase of the rate of speed—not on this part of the route.

Q. Was there ever any increase in number of men or animals in service on this part of the route during the period of your service?

A. There was not.

105 Cross-examination:

Q. What is the distance from Fort Davis to Van Horn?

A. About seventy-five miles.

Q. Name the stations between Davis and Van Horn.

A. When I drove there was but one, El Muerto Station.

Q. How many animals and men were kept at Fort Davis?

A. While I was driving I think there were five men on each end, say ten drivers, going east and west. I think from Davis east they ran two coaches and four buckboards. Twelve or fourteen animals east and twelve *twelve* animals west. I am not sure as to the east end. I did not work on that end.

Q. How many men and animals at Muerto Station?

A. Two men, no drivers, twelve animals.

Q. How many men and animals at Van Horn Station?

A. One station keeper, twelve animals. This included all that were between Davis and Van Horn. That was all the stock that was on that route. That is, there were twenty-four head of stock driven over that drive from Davis to Van Horn, five drivers.

Q. How many men and animals were kept at Quitman?

A. I can't answer the question.

Q. How many men and animals at Barele Station?

A. Two men, and I think ten or twelve animals. I am not sure when I kept the station.

Q. How many stations between Davis and Ysleta?

106 A. When I first worked for the company there were five stations between Davis and Ysleta. When I last worked for the company there were seven stations between Davis and Ysleta.

Q. Name them.

A. First, El Muerto, Van Horn, Eagle Springs, Quitman, Peerpoint. Afterwards they put in Barele Springs, and at Camp Rice, and another between there and Ysleta, I can't remember the name; they abandoned Peerpoint's.

Q. How many men and animals at Eagle Springs?

A. Two men; I can't state the number of animals.

Q. How many men and animals at the station *at the station* between Ysleta and Camp Rice?

A. One man; I can't state as to the number of animals.

Q. How many miles from Fort Davis to Ysleta?

A. I do not know that I can answer that.

Q. How was water procured at Van Horn?

A. When I first drove there there was water in a well that finally went dry, and they then brought water from Eagle Springs, twenty-two miles.

Q. How many men and animals were employed in hauling water?

A. Two men, and I believe two animals.

Q. How was forage for animals obtained between Quitman and Ysleta?

A. They had hay put up, they had men hired to put up hay at these stations. They bought grain from the Mexicans; Mexicans would bring it in sacks to Peerpoint's Station. I think the Mexicans brought it to the stations. At Muerto and Van Horn for some time the drivers
107 would take a sack of grain from Davis, sometimes they had no grain.

Q. Are you positive that the rate of speed at which you drove during the months of July or August of 1878 was the same as that during September, Oct., and Nov. of the same year?

A. Yes, the general rate of speed was the same.

Q. At what rate of speed did you drive during the first half of August?

A. I drove four or five miles an hour.

Q. At what rate of speed did you drive during the month of Sept., 1878?

A. Same rate of speed.

Q. What was your time between Davis and Van Horn in hours?

A. Fifteen or sixteen hours generally, sometimes if the road was bad the time was longer.

Q. Are you positive that you commenced driving between Davis and Van Horn before the 15th of August, 1878?

A. I am not positive. I first drove from Quitman to Eagle Springs, was sent from there to Davis, might have been after the 15th of August, when I commenced driving at Davis.

Q. Are you positive that you drove between Quitman and Eagle Springs prior to August 15th, 1878?

A. To the best of my recollection I did, but I can not swear to it, it was too long ago.

And further deponent saith not.

F. W. HARWOOD.

108 Sworn to and subscribed before me this the 23d day of April, 1886.

[SEAL.]

W. J. LAMPERT,
Cl'k Dist. Ct., Presidio Co., Tex.

Time, form, certificate, official character of officer, and mode of transmission in this deposition are waived; all other legal exceptions are saved and subject to the same. These depositions may be read in evidence in the trial of the case of the United States v. John T. Chidester et als. in the circuit court of the United States for the eastern district of Arkansas.

JOHN MCCLURE,
Att'y for Defendants.
J. E. WILLIAMS,
Att'y for Plaintiff.

EDWIN RAY, the witness for the plaintiff, being duly sworn, deposes and says:

Int. 1. State your name, residence, age, and occupation.

Ans. 1. E. Ray, San Antonio, Texas; forty-nine years of age; have been staging it the principal part of my life. I am now dealing in horses.

Int. 2. Were you at any time engaged in the employ of C. Bain & Co. in carrying the U. S. mail over what was known as the Fort Worth and Yuma route? If so, state when, between what points, and in what capacity.

109 Ans. 2. I was, as division agent, from August, 1879, to May, 1881, between Fort Davis, Texas, and Mesilla, New Mexico, a distance of about two hundred and sixty miles.

Int. 3. State the manner in which the mails were carried over this portion of the route during the period you have mentioned.

Ans. 3. They were carried from Fort Davis to Quitman, Tex., alternately, in a two-horse hack and two-horse buckboard, and from Quitman, Tex., to Mesilla, New Mexico, alternately, in a two-horse hack and a one-horse sulkey.

Int. 4. Was anything else carried over this route during this period except mails? If so, state what.

Ans. 4. Yes; we carried passengers and express freight.

Int. 5. State, if you can, the number of men and animals in use on this portion of the route during the period you were engaged.

Ans. 5. As near as I can recollect there were thirty-four men and about one hundred and sixteen animals on the route, about ninety of these animals regularly in service. There was a herd of eighteen or twenty animals at Quitman. These were used to take the place of those that were taken away and sent to Concho. This herd was all afterwards sent to Concho.

Cross-examination:

Cross-int. 1. State how the thirty-four men were employed and how——

Cross-ans. 1. There were sixteen of them drivers; there was one blacksmith; there were two water haulers; the balance of them were station men, hostlers, &c., at different stations. At Fort Davis one man, at Barel Springs one, at El Muerto two, at Van Horn one, Eagle Springs two,

110 Fort Quitman two, Camp Rice one, Hawkins one, Ysleta one, El Paso one, at Cotton Woods one, at Mesilla one. I was also employed myself as division agent.

Cross-int. 2. You state there were one hundred and sexteen animals on your division; does that number include the teams engaged in hauling water?

Cross-ans. 2. It does.

Cross-int. 3. Were there any more animals and men on your division than was necessary to execute a four-years contract for carrying the mail?

Cross-ans. 3. I do not think there was in the manner that we ran it.

Cross-int. 4. Can you state the weight of mail over that portion of the route over which you were superintendent? If so, state it.

Cross-ans. 4. That is what I can not exactly state; the weight would run from twenty-five pounds to two hundred and fifty and three hundred pounds.

Cross-int. 5. Did you continue in the service of C. Bain & Co. until service was discontinued? If not, state when you quit and the cause.

Cross-ans. 5. I did not remain in the service until it was discontinued. I quit in May, 1881, because I wanted to.

Cross-int. 6. What rate of speed per hour did you require your drivers to make?

Cross-ans. 6. About from five miles an hour to six miles an hour.

Redirect examination:

Int. 1. Was the through mail examined by the intermediate
111 post-offices between Davis and El Paso?

Ans. 2. The brass lock pouches were not examined. The only mail examined were in the way pouches.

And further deponent saith not.

E. RAY.

Sworn to and subscribed before me this 26th day of April 1886.

[SEAL.] A. S. CHEVALIER,
Notary Public, Bexar Co., Texas.

JOHN B. CHADWELL, witness for the plaintiff, being duly sworn deposes and says:

Int. 1. State your name, age, residence, and occupation.

Ans. 2. J. B. Chadwell, thirty-six years of age, San Antonio, Texas, city policeman.

Int. 2. Were you at any time engaged in the employ of C. Bain & Co., carrying the U. S. mail over what was known as the Fort Worth and Yuma route; if so when, between what points and in what capacity?

Ans. 2. Yes, from March, 1881, up to January, 1882, between Fort Davis and Fort Quitman and from Fort Davis to El Paso as division agent.

Int. 3. State in what manner the mails were carried over this portion of the route during this period?

Ans. 3. They were carried on buckboards and hacks, part of the time the hacks had two horses and part of the time they had four-horse
112 coaches. When I first went up there there was a sulky on the route, but I took it off. It ran from Quitman to El Paso, and I put on two-horse hacks. I put four-horse coaches on in August or Sep., 1881, and they ran every other day between Fort Davis and El Paso.

Int. 4. Was the running of these four-horse coaches referred to in your last answer rendered necessary by any increased weight of the mail; if not, state why they were put in use?

Ans. 4. I do not know that it was necessary to have four horses to carry the mail. I suppose the four-horse coaches were put in use to carry the travel and express.

Int. 5. Was any passenger or express matter carried while you were running the two-horse coaches?

Ans. 5. Yes, sir.

Int. 6. State the capacity of the four-horse coaches for passengers?

Ans. 6. They were six-passenger coaches.

Int. 7. What was the average daily weight of the mail; state if you know?

Ans. 7. I do not know; I never saw it weighed. It would not average more than one hundred and fifty to two hundred pounds per day, sometimes more, sometimes less.

Int. 8. Can you give the number of men and animals used on that portion of the route over which you were superintendent; if so state it?

Ans. 8. There were seventeen drivers; there was one man, a cook; at Fort Davis, one man at Barel Springs, two men at El Muerto, one at Wan Horn, and two water haulers; there was one at Eagle Springs, two at Quitman, one at Camp Rice, one at Hawkins, none at Ysleta, one at El Paso; we had eight animals at each station while we were running two-horse service; we had four extra horses at El Muerto, and four at
113 Quitman, and then four horses hauling water at Van Horns wells. This was all we had in use on this line. Mr. Ray sent twenty or twenty-five head which were kept at Quitman. The four-horse service required four more horses at each station.

Int. 9. How much baggage was allowed to each passenger?

Ans. 9. I believe sixty or seventy pounds. I did not pay much attention to this.

Cross-examination:

X Int. 1. In the statement you have made of men and animals on your division have you included those used between and out of El Paso and Mesilla?

X Ans. 1. No, sir; I did not include any of the stock or men between El Paso and Mesilla. I know nothing about them.

X Int. 2. What rate of speed did you make per hour on your portion of the route?

X Ans. 2. About six miles an hour.

X Int. 3. What would the heaviest mail weigh which you saw on your division?

X Ans. 3. I could not say. I do not think it went over two hundred pounds.

X Int. 4. Were there any more men and animals on your portion of the route than were necessary to have there to perform the four years' contract?

X Ans. 4. From the kind of wagons we were running we did not have any too much stock.

Redirect examination:

114 Int. 1. Whom did you succeed in office when entered upon this route?

Ans. 1. E. Ray.

I desire to correct a statement in my direct examination where I state

there were seventeen drivers from Davis to El Paso. I desire to state there were fifteen drivers instead of seventeen.

And further this deponent saith not.

J. B. CHADWELL.

Sworn to and subscribed to before me this 26th day of April, 1886, at San Antonio, Texas.

A. S. CHEVALIER,
Not. Pub., Bexar Co., Tex.

Time, form, certificate, place, and mode of transmission of this deposition are waived. All other legal exceptions are saved, and subject to the same these depositions may be read in evidence in the case of the United States against John T. Chidester and Logan H. Roots, now pending in the circuit court of the United States for the eastern district of Arkansas.

JOHN MCCLURE,
Att'y for Defts.
J. E. WILLIAMS,
Att'y for Plff.

115 P. J. PLUMB, witness for the plaintiff, being duly sworn, deposes and says:

1. Int. State your name, age, residence, and occupation.

Ans. P. J. Plumb; fifty-two years old; city of Austin my residence; my occupation, bridge or toll-keeper at Colorado Bridge.

2. Int. Were you at any time engaged in the employ of C. Bain & Co. in carrying U. S. mail, over what was known as the Fort Worth and Yuma route, between Fort Concho and Fort Davis? If, for what period and in what capacity?

Ans. 2. I was employed by C. Bain on that portion of the route as division agent. I commenced on the 1st day of February, A. D. 1880, and was so employed about nine months.

Int. 3. State, if you can, how the mails were carried on this part of the route during this period?

Ans. 3. They were carried in four-horse wagons, two-horse hacks, and two-horse buckboards; as the four-horse wagon would go out this evening the two-horse hack would go out to-morrow evening, and the buckboard the next day in the evening, and in this way the service was performed.

Int. 4. Was anything else besides mail carried on these vehicles; and, if so, what?

Ans. 4. There were passengers carried and express matter, and sometimes we would have to send provisions out for the station-keepers.

Int. 5. Can you give the number of men and animals in service on this division when you took charge of it. If so, state it.

Ans. 5. The number of animals turned over to me were one
116 hundred and three head of mules and horses. As well as I recollect there were fourteen men, one at each end, in all sixteen drivers; a station-keeper or cook at each station, eight station-keepers in all; and then there was a herder at Centralia, one at Escondedo, and one at Barilla Springs, three herders in all; and one blacksmith and one water hauler, with four males not included in the one hundred and three mentioned. There were no other men except myself, thirty men in all.

Int. 6. Who provided rations for such Government troops as you had along the line guarding the companies property?

Ans. 6. They drew their rations from the Government, I suppose; furnished their own rations. I know that we did not feed them.

Cross-examination:

Int. 1. To whom did you receipt for the one hundred and three head of animals mentioned in your examination-in-chief?

Ans. to Cross Int. 1. There was no receipt required of me; the parties who had them in charge simply turned them over to me, and I continued the business right along.

X. Int. 3. Who turned them over to you?

Ans. 3. I don't remember his initials, but a man by the name of Webster.

X. Int. 4. How is it that you recollect that there were but one hundred and three animals?

Ans. 4. They were counted as we went over the road by Mr. Webster. I was with him when the counting was done.

X. Int. 5. Is your statement of the number of animals based on
117 mere recollection alone, or have you any written memorandum from which you state the facts?

Ans. 5. I did have a memorandum a long time ago, but it has been torn up or wasted a long time ago, but I recollect the number as being one hundred and three.

X. Int. 6. To whom did you turn over the stock when you left the employ of C. Bain & Co.?

Ans. 6. I came home to attend a sick child and was there taken sick; when I left, I left the road in charge of a man by the name of Dan Taylor.

X. Int. 7. How many animals were on your division when you left Taylor in charge?

Ans. 7. The same number that was turned over to me except one that died, and four in the water team that I added.

X. Int. 8. How many animals did C. Bain & Co. have at Concho when you took charge of your division?

Ans. 8. I can not say. They had a great many animals at Concho. They may have had as many as fifty; this was stock that did not belong to any division and that might be considered as surplus, and when an animal died or got lame it was replaced from this point.

X. Int. 9. Were any extra animals kept at stations other than Concho on your division? If so, where, and the number?

Ans. 9. Yes, sir; there were extra animals, but none above the one hundred and three before mentioned.

X. Int. 10. Are you positive that you took charge of your division in February of 1880?

Ans. 10. As well as I recollect it was in February of 1880. I
118 have no memorandum which I can refer to.

X. Int. 11. Do you know how many persons were employed in caring for the extra stock at Concho? If so, state the number?

Ans. 11. I have no idea. I had nothing to do with it.

X. Int. 12. Are you positive that there were not two teams of four animals each employed in hauling water?

Ans. 12. Yes, sir; I am positive that there was but one team.

X. Int. 13. State if between Concho and Fort Davis soldiers were carried on vehicles which carried the mails, and if so, how many?

Ans. 13. They were not carried regularly, but only when the drivers would request it, generally one, but sometimes two.

X. Int. 14. Why were the soldiers carried?

Ans. 14. I suppose as protection to the mails or stock, or to assist in doing so, from the Indians.

X. Int. 15. Did the Indians ever molest the stock between Concho and Davis that you know of?

Ans. 15. Not during the time that I was there. I know of no instance of Indian depredations on my route.

Re-examination:

Ques. 1 Were the extra stock at Concho referred to by you in your cross-examination used also to replenish the stock of C. Bain & Co. on the mail route running from San Antonio and Austin to Concho as well as to replenish that on the Fort Worth and Yuma route?

Ans. 1. Re-ex. It was C. Bain & Co.'s stock, and I suppose
119 they used it wherever they wanted it.

Re-ex. Int. 2. What kind of roads have they on your division and what time did you make?

Ans. 2. As well as I remember for the two hundred and fifty miles we had forty-four horses. It was good natural road.

And further this deponent saith not.

P. J. PLUMB.

Sworn to and subscribed before me this 28th day of April, A. D. 1886.

[SEAL] SAMUEL HOPKINS,
Clerk of the U. S. Circuit Court at Austin.

Time, form, manner, certificate of official character of officer before whom this deposition was taken and the mode of transmission is waived. All other legal exceptions are saved, and, subject to this agreement, this deposition may be read in evidence in the case of the United States v. John T. Chidester et al., ending in the circuit court of the United States for the eastern district of Arkansas.

JOHN MCCLURE,
Att'y for Defendants.
J. E. WILLIAMS,
For Plaintiffs.

120 M. W. CARRICA, being sworn, testifies as follows:

My name is M. W. Carrico; my residence is Midlothian, Ellis County, Texas; my age is thirty years; am in the produce business, and agent for the Pacific Express Company.

I was in charge of the post-office at El Paso, Texas, as assistant postmaster, from May, 1880, to January, 1881. During the period I was there the mail was brought daily on either a sulkey, buckboard, or hack. The buckboards and hacks required two animals and the sulkey one animal. The mail came about one-half the time in two-horse vehicles, and the remainder of the time in sulkey or two-horse vehicles, going each way. If nothing but mail had been carried it could have been carried possibly

all the time with one horse, except in bad weather. The mail was never heavy enough to require more than two horses. The west-bound mail was by far the heaviest mail received. El Paso was an international post-office. All the Mexican mail was received at this office. Sometimes the west-bound mail was very heavy, about twice a week. It was our duty to examine the entire mail coming to or through our office. It took me about fifteen minutes on an average to have the mail ready for the coach. There was no office between Fort Concho and Mesilla, except El Paso, that examined the entire mail. It might have been examined at Fort Davis, but I don't think it was while I was in charge of the office at El Paso. The intermediate points were supplied with mail from way-pouches with a common lock.

121 Cross-examination:

Q. 1. Do you know anything about the weight of the mail coming to El Paso from July 1st, 1878, to May, 1880?

A. I do not.

Q. 2. How near was the Texas and Pacific Railroad completed to El Paso in May, GEEO?

A. My recollection is that Fort Worth was the terminus.

Q. 3. Do you know what manner of vehicles and the number of horses attached to them was used in delivering the mails on this route at El Paso prior to May, 1880?

A. I do not.

And further deponent saith not.

M. W. CARRICO.

It is agreed that these depositions shall be read in evidence in this case, subject, however, to any and all exceptions for competency, materiality, and irrelevancy, time and for only being excepted.

JOHN MCCLURE,
Att'y for Defendants.
J. E. WILLIAMS,
Att'y for Plaintiff.

122 W. N. A. NORTON, a witness introduced on the part of the plaintiff, being duly sworn, deposes and says:

Question No. 1. State your name, age, residence, and present occupation.

Answer. My name is W. N.A. Norton; age, forty-four years; residence, Coleman, Texas, and am a contractor on the railroad at present.

Question No. 2. Where did you reside and in what business were you engaged in the latter part of the year 1878?

Answer. In Mesilla, New Mexico, and in the stage business, in the employ of J. B. Price, as superintendent of his stage service between Santa Fé and Tucson, Arizona; this included the service between Mesilla and Tucson on the route from Fort Worth to Yuma.

Question No. 3. What time did you commence your work on this route and how long did you continue in this service?

Answer. About the latter part of September, 1878; I ceased to be connected with the route about the time the railroad was completed to Tucson, but was superintendent up to that time, after which time I was relieved by O. R. Smythe on the Fort Worth and Yuma route, but I

remained in Price's employ in charge of the Santa Fé route. Smythe had been previously on the Fort Worth and Yuma route under me as assistant.

Question No. 4. How many men and animals were in actual use in carrying the mails over this route from Mesilla to Tucson?

Answer. About one hundred and sixty head of horses and mules and thirty-four men. I put a portion of this stock on this route, and this was the total number in use while I was superintendent.

Question No. 4. Have you included in this number forage
123 teams and drivers and any extras of either men or animals; if not, state what number of men and animals did you have for these purposes?

Answer. This was the total, I have included all; this was the number in use. I make this statement not from memorandum but from my knowledge of the men and animals and the stations on the route.

Question No. 5. Was this number of men and animals actually necessary to carry the mails? If not, state how many would have been necessary if the mails only had been carried.

Answer. No, sir. I should say that it would have required about one hundred and twenty-four animals for all purposes. It would require about the same number of men as was required by the one hundred and sixty animals.

Question No. 6. In your answer to interrogatory No. 3, where you give the number of men actually employed at thirty-four, do you include superintendents, blacksmiths, harness-makers, &c? If not, what additional number did you have for these purposes?

Answer. We had three additional men besides myself, but I acted on this and the Santa Fé route also.

Cross-examination by JOHN MCCLURE, Esq., for defendants:

Question No. 1. What is the distance from Tucson to Mesilla?

Answer. Three hundred and fifty-five miles.

Question No. 2. How many stations were there on this route?

Answer. There were thirteen stations on the route.

Question No. 3. State their names, commencing at Tucson, in their order, and the distance between each.

124 Answer. From Tucson to San Pedro was thirty miles, from San Pedro to point of mountain was about twenty-five miles, from point of mountain to Dos Cabecos was about fifteen miles, from Dos Cabecos to Ft. Bowie was about fifteen miles, from Ft. Bowie to San Samond was about seventeen miles, from San Samond to Shakespear was about twenty miles, from Shakespear to Knight's ranch was about twenty miles, from Knight's ranch to Silver City was about thirty-three miles, from Silver City to Hot Springs was about twenty-five miles, from Hot Springs to Fort Cummings was about twenty-two miles, from Fort Cummings to Mason's ranch was called thirty-three miles, from Mason's ranch to Masilla was twenty-five miles.

Question No. 4. How many animals were kept at Tucson?

Answer. Eight head.

Question No. 5. How many at San Pedro?

Answer. Sixteen head.

Question No. 6. Name the number at each station from San Pedro on taking the stations as they come.

Answer. At point of mountain about twelve head, at Dos Cabecos about twelve head, at Fort Bowie twelve head, at San Samond sixteen head, at Shakespear twelve head, at Knight's ranch sixteen head, at Silver City eight head, at Hot Springs twelve head, at Fort Cummings twelve head, at Mason's ranch sixteen head, at Mesilla eight head, making a total of one hundred and sixty head on the line.

Question No. 7. How many animals, if any, were employed in hauling feed, forage, or water?

Answer. We hired water and feed hauled. We had one team of four animals hired to haul water, and it would have taken about eight
125 animals or two teams to freight forage continuously.

Question No. 8. What extra animals were kept to supply lame and disabled animals?

Answer. We kept some extra stock at Mesilla—from three to five head—to be used where needed, sometimes on one route and sometimes on the other; there were about three extra animals in use all the time on this route.

Question No. 9. Could the service of carrying the mail over that portion of the route have been performed without hauling or hiring the water and forage of which you have spoken?

Answer. No.

Question No. 10. Why is it that in making your estimate of the number of animals necessary to carry the mails over that portion of the route you did not take into consideration the forage and water teams?

Answer I overlooked it.

Question No. 11. Do you know the number of men and animals employed on that portion of the route after Smythe took charge?

Answer. I do not.

Question No. 12. In the course of your testimony you have made frequent reference to a paper held in your hand. State whether it contains any data to refresh your memory; and, if so, when and from what is it made up.

Answer. It contains a few figures which I have made myself. It is made from my own memory, and not Price's books. It has been made in the last day or two.

126 Question No. 13. Up until within the last few days you have attempted to fix in your mind the number of men and animals that were used on that route eight years ago?

Answer. Mr. Price's son wrote me a letter requesting me to give him the number of men and animals. This was six weeks or two months ago, and on receipt of the letter I made the figures from which these used in this deposition are taken.

Question (on redirect examination). Did you have much passenger traffic over this route?

Answer. We had a fair average travel for a stage route; sixty pounds of baggage was allowed to each passenger.

Further the deponent saith not.

W. N. A. NORTON.

Subscribed and sworn to before me this 27th day of April, A. D. 1886.

F. B. HUSTON,
Not. Pub., Taylor Co., Tex.

Time and form in taking these depositions and forwarding the same waived; all other legal exceptions are saved, and subject to this the same may be read or used as evidence.

JOHN MCCLURE,
Att'y for Defendants.
J. E. WILLIAMS,
Att'y for Plaintiff.

127 CHARLES VANNATTA, witness produced on the part of the plaintiff, being duly sworn, says:

1. Q. State your name, age, residence, and present occupation.

A. Charles Vannatta; age, forty-five; residence, Mendocino County, Point Runa, Cal.; present occupation, driving stage.

2. Q. Were you engaged in the service of carrying the U. S. mail over what was known as the Fort Worth and Yuma route; and, if so, state when, and between what points, and in what capacity?

A. Yes, in 1879, between Silver City and Fort Cummings. I can't recollect exactly, but I think between eight and nine months. I was driver of a stage.

3. Q. State, if you know, how the mails were carried over this route during the time you were so engaged.

A. It was carried by four-horse coaches, the part that I carried. I carried it every other day. The other days it was carried with one horse and a two-wheeled vehicle. I don't mean it was carried that way all the time I was there. It was afterwards changed while I was there to two horses instead of one; this change was made two or three months before I left.

4. Q. State the general character of the road over that part of the route over which you drove.

A. The road was good. It was a good natural road.

5. Q. State, if you know, how many men and animals were actually used on the part of the route over which you drove during the time you were so engaged.

A. There were twenty horses and four men.

128 6. Q. If mails only had been carried, in what manner could the service have been performed?

A. In regular stage time, five miles an hour, two horses could have carried the mail at any time while I was there.

7. Q. What amount of men and animals would have been necessary to perform the service on the portion of the route over which you drove, if mails only had been carried?

A. It would have taken the same number of men and four animals less.

8. Q. How long have you been engaged in the stage business?

A. Since 1858. I was engaged as a driver all the time I was engaged in the business, and I have never been off a stage road for more than two years of that time. I mean not more than two years at any one time.

Cross-examination:

In what business were you engaged and where for ten (10) years prior to the time you were driving between Silver City and Fort Cummings?

From 1869 to 1879 I was engaged most all the time, that is, when I

was at work at all, as a stage driver in different places. I don't remember that I had any other employment. I was between Nashville and Lebanon, Tennessee, up to July 1st, 1871. I went from there to Springfield, Missouri, and was there, I think, for three months, then I went from there into the Indian Territory, between Kansas and Texas. I was there till the spring of 1872. I went from there on the road from Little Rock to Fort Smith; I stayed there about three months. The next work I done was in Kansas, driving between Cheneyvale and Independance for the Southwestern Stage Company. I worked for that company about two
129 years, but not at that place all the time. I then came to Colorado in April, 1874, and drove out of Denver on the Fair Play road for four months, then I came to Pueblo, Colorado, drove between Pueblo and Trinidad. I worked for that company, the Barlow and Sanders Company, until I went to Silver City.

Q. For whom did you drive in 1872, between Little Rock and Fort Smith, and between what points?

A. Ficklen and Sanger. I drove between Ozark and Russellville Arkansas.

Q. In whose employ were you on the route between Silver City and Fort Cummings?

A. The National Mail and Transportation Company.

Q. Why did you quit the service of that company?

A. The superintendent and I didn't agree on a pair of horses that he traded; his name was O. R. Smythe. I wanted to quit anyway on account of the Indians, and I made that an excuse. The Indians were bad.

Q. What is the distance between Silver City and Fort Cummings?

A. To the best of my recollection now we called it fifty (50) miles.

Q. How were the four men of which you have spoken in your examination-in-chief employed?

A. There were two of us employed driving four horses; one was employed driving the one-horse vehicle, and one was a stock-tender.

Q. At what point was the stock-tender located?

A. Hot Springs, New Mexico.

Q. How many head of animals were there?

130 A. There should be ten (10) standing horses there all the time.

Q. How many at Silver City?

A. There were five horses stabled there every night, and five at Fort Cummings. Hot Springs was the only place at which there was a change of horses between Silver City and Fort Cummings at that time.

Q. Did you stop at Pinos Altos post-office?

A. There was no post-office of that name that I know of on that road. I never delivered any mail at that post-office.

Q. From what point between Silver City and Fort Cummings was Fort Bayard served with mail, if at all?

A. We delivered mail at Fort Bayard. That is a post-office on the route, and I drove there with the mail.

Q. How many men and animals were used in supplying forage and water at Silver City, Fort Cummings, and between these points?

A. There were none outside of the twenty horses we had that I know of.

Q. State the weight of the mail, as near as you can, between Silver City and Fort Cummings on the days which you drove.

A. I don't think it would go over three hundred pounds, nor under two hundred pounds. I think three hundred pounds would be the biggest mail I ever saw there.

Q. How old were you when you first commenced driving stage?

A. I was born in 1841, and I commenced to drive in 1858; that would make me seventeen or eighteen years old then.

Q. Were there any extra horses kept to supply lame or disabled
131 horses at Silver City, Hot Springs, or Fort Cummings?

A. To the best of my recollection there was an extra horse belongingto the stage company at Silver City and one at Fort Cummings for a while. I didn't use either one of them. That is all I remember of.

Re-direct examination:

Q. What was your running time between Fort Cummings and Silver City?

A. We left Fort Cummings at seven o'clock and arrived at Silver City at six—eleven hours.

Q. Who took care of your stock at the terminal points on the drive?

A. At Silver City they were put up in a livery-stable; at Fort Cummings the driver took care of his own stock. At Silver City the livery-stable took care of the horses.

And further deponent saith not.

CHAS. VANNATTA.

Subscribed and sworn to before me this 9th day of April, A. D. 1886.

JAMES MASON,
Notary Public.

Time, form, and mode of transmission of this deposition is waived. All legal exceptions to the same other than as above stated are open to either party, and are preserved, and subject to these, the same may be offered and read in evidence at the trial of this cause.

JOHN MCCLURE,
For Defendants.
J. E. WILLIAMS,
For Plaintiff.

132 F. C. NORTON, a witness introduced for the plaintiff, being duly sworn, deposes and says:

Question 1. State your name, age, residence, and present occupation.

Answer. F. C. Norton; forty-eight years; Tucson; I have been in the livery business but am doing nothing at present.

Question 2. Were you ever engaged in the stage business, and if so, how long and in what capacity?

Answer. Yes, sir; eight or nine years, as a driver.

Question 3. Are you familiar with the stage route between Tucson and Yuma?

Answer. Yes, sir; I have been over it a good many times.

Question 4. Did you ever drive over it as a stage-driver, and if so, state when?

Answer. I drove over the route from Yuma to Mohawk for several years from 1872 to 1875, I don't remember the months.

Question 5. During the time you were engaged as a stage-driver on this and other routes did you carry the United States mails?

Answer. Yes, sir.

Question 6. State what amount of mail can be carried regularly daily over such a route as the one from Tucson to Yuma by two-horse service on a schedule time of five miles per hour?

Answer. Six or seven hundred pounds without injury to the stock.

Question 7. If occasionally there should be a heavier mail than this could it be performed with the same stock on schedule time?

133 Answer. Providing it would not be too often; yes.

Question 8. What would you consider too often?

Answer. They would stand five or six or seven days apart.

Question 9. How many horses to a station would it require to stock this road for two-horse service between Tucson and Yuma?

Answer. About four horses to a station.

Cross-examination:

Question 1. Do you regard yourself as an expert in the matter of determining what distance a horse can travel per day and haul a given number of pounds?

Answer. I don't know what you mean by expert; no man can give a direct answer to that question.

Question 2. How many miles per day can a pair of horses attached to a hack or coach make per day with a load of six or seven hundred pounds?

Answer. Twenty-five or thirty miles.

Question 3. Can they do that daily at the rate of five miles per hour for a period of six months?

Answer. Yes, sir.

Question 4. How much less would the horses be worth after six months of such service than they were whey they commenced?

Answer. I don't know that they would be any less valuable.

Question 5. Did you drive any portion of the route between

134 Tucson and Yuma after July 1st, 1878?

Answer. No, sir.

Question 6. Do you know anything about the road between Tucson and Mesilla?

Answer. No, sir; not beyond San Simon Valley.

Question 7. Do you know who had the contract for carrying the mail between Tucson and Mesilla after July 1st, 1878; if so, state it?

Answer. I don't know who had the contract; Norton and Smythe seemed to have charge of it.

Question 8. Did you at any time keep stock for either of them; if so, state during what period?

Answer. I took care of their stock somewhere about January, 1879; I commenced taking care of their stock and kept it for a little over a year; I kept the stock that carried the mail during the year 1878.

Question 9. State if you know what stock during the latter half of the year 1878 and the year 1879 was used in carrying the mails out of Tucson toward Mesilla, and in what kind of vehicles it was carried?

Answer. In the latter half of the year 1878 it was carried every other day in a two-horse jerkey, the rest of the time in a one-horse vehicle. In

1879 in the early part of the year it was carried in four-horse coaches, and so during the year.

Re-direct examination:

Question 1. Are you familiar with the capacity of a horse to travel and carry a given load in this country; do you know what a horse
135 can do?

Answer. Yes, sir; according to the kind of horse.

Further deponent saith not.

F. C. NORTON.

Time, form, certificate, and mode of transmission of this deposition is waived. All other legal exceptions except those stated are saved. And subject to the same, this deposition may be used in evidence in the case of The United States v. John T. Chidester et al, pending in the circuit court of the United States for the eastern district of Arkansas.

JOHN MCCLURE,
For Defendants.
J. E. WILLIAMS,
For Plaintiff.

SAMUEL LEE, witness for the plaintiff, being duly sworn according to law, deposes and says:

1. Question. Your name, age, residence, and present occupation?

A. Samuel Lee; age, forty-one years; residence, Tucson, Arizona; occupation, have been in the freighting business last.

2. Question. In what business were you engaged and for whom from and after July 1st, 1878?

A. Engaged in driving stage or buckboard and carrying mail from Tucson to Point of Mountain for Mr. Price on the Chidester route. I drove about one month for Mr. Price after Tully, Ochra & Co.'s contract expired; I then quit driving and went to keeping station
136 for this company at Mountain Springs, and kept the station until April, 1879. I then sold out my part of the station, and did not work on the line for some time. Afterward [I don't know what year] I went to driving for them from Busore to Fort Bowie. As near as I can remember I continued in this service about four months; part of this time I drove between Bowie and Wilcox.

3. Q. State, if you know, how the service of carrying mail over this part of the route was performed.

A. It was performed by one animal to a buckboard and four to a stage; every other day was a buckboard and then a stage.

4. Q. Do you mean to state that the service was performed by a horse and buckboard one day, and four animals and a coach the next, the two alternating with each other?

A. Yes, sir.

5. Q. State, if you know, what amount of mail was carried over this portion of the route during the time you were connected with it.

A. I do not think there was over one hundred pounds at any one time.

6. Q. If mails only had been carried, in what manner could the service have been performed?

A. With one horse and buckboard.

7. Q. How many years have you driven stage and carried United States mail?

A. About fourteen.

8. Q. Are you familiar with the capacity of an animal for trav-
137 elling in the stage business.

Yes, sir.

9. Q. State, if in your judgment an animal well kept can travel five or six miles per hour for three hours per day and stand it well as to travel three and one-half miles per hour and travel five hours per day.

A. Yes, sir; he will go five miles per hour for three hours easier than three and one-half miles per hour for five hours, because he is then over his route, rested, and fed. I have driven fifty miles in seven hours without hurting my stock.

10. Q. Was the rate of speed which you drove on this route ever increased after Price put the road in operation?

A. No, sir; it never was.

Cross-examination by Judge McCLURE for the defendant:

1. Q. What was the schedule time between Fort Worth and Yuma when you went to work for Price, July 1st, 1878?

A. I do not know what the time from Fort Worth to Yuma was, but the schedule route of speed was about four and a half to five miles per hour.

2. Q. Were you driving, or keeping station, after the 15th of August, 1878, and during the residue of that year?

A. I think I was keeping station.

Q. If you were not driving after August 15th, 1878, and was keeping station, how do you know whether the rate of speed had been increased or not after that date?

138 A. It was not increased that I know anything about.

4. Q. Why did you state in your examination-in-chief that it had not been increased if you did not know anything about it?

A. When I drove from Buesore to Bowie it had not been increased.

5. Q. Did you drive between Bueson and Bowie prior to August 15th, 1878?

A. I think it was in 1879.

6. Q. Did you drive between Bueson and Bowie before August 15th, 1878?

A. No, sir.

7. Q. How, then, do you know what rate of speed was made between Bueson and Bowie before August 15th, 1878?

A. I can not tell exactly.

8. Q. If you can not tell exactly, why is it that you assert so positively that there was no increase of speed?

A. Because it was no farther between Pueson and Bowie than it was between Tucson and Point of Mountain when I drove there.

9. Q. At what time did you commence driving between Bueson and Bowie?

A. I do not exactly, but think it was in the fall and winter of 1879.

10. Q. Who hired you when you drove between Bueson and Bowie?

A. James Clark, an agent of the company.

11. Q. Who discharged you?

A. I don't know that I was discharged. The stock was attached by Mr. Steele at Wilcox, and a man by name of Bassett continued carrying the mail with other stock.

139 12. Q. When you were driving between Bowie and *Bueson*, were you on the coach or the buckboard?

A. I *w*was on what they called the coach. It was run with two animals.

13. Q. Did Fort Bowie get its mail from your coach?

A. Yes, sir.

14. Q. Where have you resided for the past ten years, and in what business have you been engaged, and in whose employ have you been?

A. I will be here ten years this June. I was engaged principally in staging, kept a correl here in town, and freighting up to within past three weeks, when I sold out. I worked for Mr. Morrel, staging from Tucson to point of mountain in 1876. I then worked for Tully, Ochon & Co. after Morrel died, and then for Price. I also worked for Norton and Steward between San Carlos and Globe; also for Mr. Walker and Billy Ohnersorgen, between Tucson and Tumbstone. I kept *c*arral in Tucson about four months.

15. Q. How long did you drive stage before you came to Tucson?

A. About ten years.

Further deponent saith not.

SAMUEL (his x mark) LEE.

Witness:

H. D. Nowland.

140 ANDREW CRONLEY, witness for the plaintiff, being duly sworn according to law, deposes and says:

1. Question. State your name, age, residence, and present occupation.

Answer. Age, forty-one years; residence, San Pedro River; present occupation, in employ of Tucson Water Company as superintendent.

2. Question. In what business were you engaged, and for whom, from and after July 1st, 1878, and how long were you so employed?

Answer. I was book-keeper for Tully, Ochon & Co. until some time in 1883.

3. Question. Were you driving any of this period, acting for J. B. Price; and if so, in what capacity and for how long?

Answer. As book-keeper for Tully, Ochon & Co. I acted as agent for the National Mail and Transportation Company, which was J. B. Price's company, from July 1st, 1878, up to about April 1st, 1880. The National Line extended from Tucson, A. T., to Santa Fé, N. M.

4. Question. Do you know who run that portion of the mail route known as the Fort Worth and Yuma route, lying between Mesilla, N. M., and Tucson, A. T.

Answer. The National Mail and Transportation Company.

5. Question. Were you acting as agent for them in running this line?

Answer. As book-keeper for Tully, Ochon & Co. I was.

6. Question. Were you familiar with the manner of performing the service of carrying the mails over this route or any part of it; and if so, state between what points, and how it was performed?

Answer. I was familiar with the service between Tucson, A. T., and Mesilla, N. M. One day they run from Tucson with four [4] horse coach, and every other day with a buckboard and one animal.

141 7. Question. Was the service performed in this manner to and fro over the line from Tuscon, A. T., to Mesilla, N. M.?

Answer. I know it was from Tuscon to Fort Bowie, beyond that I do not know.

8. Question. You state that on alternate days a four-horse coach was used; state whether or not this was rendered necessary by the increased quantity of mails on those days?

Answer. I do not think it was.

9. Question. State if you know the amount of mail that was carried over this portion of the route?

Answer. It would average one hundred and fifty pounds per day. Three hundred pounds would cover the heaviest mails.

10. Question. What means, if any, had you of knowing the amount of mail so carried?

Answer. I always went to the post-office and put it on to the coach or buckboard.

11. Question. If mails only had been carried over this route how could the service have been performed?

Answer. One animal and buckboard could have carried the mails if mails only had been carried.

12. Question. Over what part of this route do you mean to apply this last statement?

Answer. Over that part of the route from Tucson east to Santa Fe and Fort Worth.

13. Question. Could the mails carried to Tucson from the east

142 have been carried in the same way?

Answer. They could.

14. Question. Do you know the number of men and animals actually engaged in performing the service on this route or any portion of it prior to August 15th, 1887; and if so, state the number and between what points?

Answer. I know the number of men and animals between Tucson and Fort Bowie prior to the 15th of August, 1878. Four drivers, forty horses on the coaches, and ten horses on the buckboards, also three hostlers more employed by the company at the other two stations; the station keepers took care of the stock, and I suppose were paid for keeping same.

15. Question. Of this number how many would have been actually necessary had the mails only been carried?

Answer. The same number of drivers and hostlers would have been necessary; twenty horses would have performed the services with buckboard.

16. Question. Was the number of men and animals in service on this route increased any after August 15th, 1878?

Answer. To my knowledge it was not.

17. Question. Did you know Mattias Estrada, and did he work for this company, and if so, for what time, in what capacity, and between what points?

Answer. Yes, I knew him; he did work for the company as buckboard

driver up to the time that mail was put on cars at Pantano between Tucson and Bowie and afterwards between Pantano and Bowie up to the time the railroad reached Wilcox, when he quit.

143 Cross-examination—by Judge McCLURE, for deft.

1. Question. How far is it from Tucson to Fort Bowie?

Answer. I think about one hundred fourteen miles.

2. Question. How far is it from Fort Bowie to Mesilla?

Answer. I think about two hundred and twenty-eight miles.

3. Question. Do you know anything about the number of men and animals employed in carrying the mail between Fort Bowie and Mesilla?

Answer. I do not.

4. Question. Do you know whether the mail increased or decreased between Tucson, A. T., and Mesilla, N. M., going eastward?

Answer. I do not.

5. Question. How often were you over the route between here and Bowie between July 1st, 1878, while you were acting as agent, and April, 1880?

Answer. I never was over it.

6. Question. How then do you know where the stations were and the number of men and animals at each?

Answer. I had to pay the men off.

7. Question. Were then paid at the stations or at Tucson?

Answer. All the drivers and I think one or two of the hostlers were paid in Tucson.

8. Question. Where were the other hostlers paid and by whom?

Answer. I paid them in part and the superintendent generally paid them in full when he went over the line to pay off.

9. Question. During what period of time did you so pay?

144 Answer. I paid from the time the contract commenced until April 1, 1880.

10. Question. Do you know O. R. Smythe?

Answer. I do.

11. Question. What if anything did he have to do with paying the drivers and hostlers?

Answer. He used to settle all time accounts in full after he became superintendent.

12. Question. Do you know anything about the weight of the mail when it reached Fort Bowie going either east or west?

Answer. I do not.

13. Question. Then why do you say that the mail could have been carried from Tucson to Fort Bowie with one animal and buckboard, if you know nothing about the weight of the mails after it left Tucson?

Answer. I judge from the weight of mail put on at Tucson post-office going east, and the weight of the mail arriving going west.

14. Question. What had you to do with the mail coming from the east, if anything; that is, did you take it off the coach?

Answer. As a general thing I took the mail off the coach from the east, except when it was late and I had gone home.

15. Question. Do you mean to be understood as saying that from July 1st, 1887, until April, 1880, the mail was carried on alternate days during that period on a buckboard?

Answer. It was.

16. Question. Do you know how many men and animals, if any, were used in hauling forage and water between Tucson and Fort Bowie?

Answer. I don't think there was any in hauling forage and I
145 know there was none in hauling water.

17. Question. Do you know whether there were any blacksmiths and other persons in the employ of the company between Tucson and Fort Bowie? If so, state how many, and their names, if you recollect them?

Answer. There was a blacksmith, and after the company had been running about one year they built a station of their own at the point of mountain and put a man by name of Smart in charge of it; don't know whether he had any one with him or not.

18. Question. If you were never over the route between Tucson and Fort Bowie, how is it you can tell the number of animals which were used in carrying the mail?

Answer. I know from the station-keepers and their accounts, which I kept.

19. Question. How many station-keepers were there between Tucson and Fort Bowie?

Answer. Four.

20. Question. State whether or not Price had any stations between Tucson and Bowie at which he kept hostlers and fed his own team?

Answer. Sometimes he would have them all; if he was dissatisfied with his station-keeper he would put his own man there.

21. Question. State whether in your opinion the mail could have been carried without having a man at each of the stations to take care of the stock or paying an outsider a sum equivalent to the station-keeper for taking care of it?

Answer. I think it was necessary to have a man at each station to take care of the stock.

146 22. Question. Do you know whether there was any extra men or animals kept between Tucson, A. T., and Mesilla, N. M., to take the place of sick and disabled?

Answer. I do not know of any.

23. Question. Have you any knowledge at all as to whether there was an increase of men and animals after August 15th, 1878, between Tucson, A. T., and Mesilla, N. M.?

Answer. Between Bowie and Mesilla, I don't know. Between Bowie and Tucson there was not as I know.

24. Question. Do you make your last answer from mere recollection?

Answer. I do.

25. Question. Do you pretend to say that after the lapse of eight years you can recollect how many men and animals were in daily use on the route between Tucson and Bowie prior to August 15th, 1878, and how many were there subsequent to that period and up to April, 1880, when you never saw more than one team and had never been over the route?

Answer. I do pretend to say it. I recollect it after eight years.

Re-direct:

1. Question. How much, if any, passenger travel was there over this route during the time of your connection with it?

Answer. Very seldom carried passengers on the buckboard and some days had six or seven on the coach, and some days it would go out empty. I think the average would be about two each day, coach days. Further deponent saith not.

ANDREW COONLEY.

147 THOMAS STEEL, witness for the plaintiff, being duly sworn, deposes and says:

1. Question. State your name, age, residence, and present occupation.

Answer. Thomas Steele; age, forty-one years; residence, Wilcox, A. T.; occupation, stock-raising.

2. Question. Where were you residing and in what were you engaged from and after July 1st, 1878, and how long did you remain in that employment?

Answer. Living at Point of Mountain, keeping station on Fort Worth and Yuma mail-route between Tucson, A. T., and Mesilla, N. M. I made my contract with O. R. Smythe. I remained in this business until the railroad reached Wilcox; it was either in 1880 or 1881. Afterward I was engaged in the same business at Wilcox, having given up the former station; was at Wilcox three or four months.

3. Question. State, if you know, in what manner the service of carrying the mails on this portion of the route was performed?

Answer. It was carried on alternate days with a one-horse buckboard, and on the other days with a two-horse jerkey.

4. Question. Between what points do you mean to state the service was thus performed?

Answer. I can not say any further than from Tucson to Point of Mountain, except that it was received and departed east from Point of Mountain in same way, but can not say how far eastward it was thus carried.

5. Question. How long was the service thus performed; when, and what, if any, changes were made in the manner of performing this service?

148 Answer. I can not tell the dates of the changes, but think there was a change made in the latter part of the year 1879. It was changed from a two-horse jerkey to a four-horse coach on the alternate days. The buckboard was retained, I think, but I am not positive—I mean the one-horse buckboard.

6. Question. Were you familiar with and had you means of knowing the amount of mail carried to and fro over this portion of the route? If so, state what it was.

Answer. Up to Point of Mountain I was familiar with it. I had rode in to Tucson and out on the stage several times. Helped hitch up the horses, and saw the mail in the coach. It was all the way from twenty-five to one hundred and fifty pounds.

7. Question. If mails only had been carried, in what manner could the service have been performed on that portion of the route with which you were familiar?

Answer. With a one-horse buckboard.

8. Question. Could it have been so performed during the entire time in which the service was performed by the stage company?

Answer. I think it could.

Cross-examination:

By Judge McCLURE, for defendant.

1. Question. What is the distance from Tucson to Point of Mountain?

Answer. About seventy-five miles.

2. Question. Then when you say the mail could have been carried with *i* on'-horse buckboard from Tucson to Point of Mountain, do you mean to include any other portion of the route between Tucson, A. T., and Mesilla, N. M.?

Answer. I did not, because I did not know anything about it further than Point of Mountain.

149 3. Question. Is there a post-office at the Point of Mountain, or was there one there?

Answer. There never was.

4. Question. Was the mail when it reached Point of Mountain changed from one vehicle to another?

Answer. No, sir.

5. Question. The mail, as you saw it then, was upon some sort of a vehicle, was it not?

Answer. It was.

6. Question. How often, if at all, did you look into the boot of the stage with a view of forming an opinion as to the weight of the mail?

Answer. As to the weight of the mail, I never looked into the boot at all, with a view of forming an opinion as to the weight.

7. Question. You have stated in your examination in chief, that there was an increase of stock placed upon the road, you think in the latter part of 1879; are you sure that the increase of which you speak was not made in the latter half of 1878?

Answer. I am not sure.

8. Question. How much of your time between July 1st, 1878, and the time the railroad reached Wilcox was spent at Point of Mountion Station?

Answer. I can not remember exactly—six or eight months.

9. Question. State whether or not you kept the station at Point of Mountain prior to July 1st, 1878, and if so for what length of time previous to that?

Answer. I did. I think we built the station in 1874.

150 10. Question. State in what manner the mail was carried from 1874, the time you built the station, up to July 1st, 1878?

Answer. Up to about 1878, the mail did not run within twenty miles of my place. It was a year or two after we built the station before the mails came that way.

11. Question. Now state how the mails were brought to your station when they first came?

Answer. I think it was a one-horse buckboard. It might have been a two-horse buckboard.

12. Question. Are you sure that from July 1st, 1878, up to the time the railroad was completed to Wilcox in 1881, that during all that time the mail was carried on alternate days with a one-horse buckboard between Tucson and Point Mountain?

Answer. No sir, I am not.

13. Question. Why are you not sure?

Answer. I do not remember positively enough to be sure. It was some time ago, and I can not remember.

Re-direct:

1. Question. Was the running of the four-horse coaches on alternate days, which you state was commenced after the service began, rendered necessary by the increased weight of the mails on those days?

Answer. I should not think it was necessary.

2. Question. State, if you know, why these coaches were run and the amount of stock thus increased.

Answer. In this country in those days we always liked to have a great deal of company, and I suppose it was done *and I suppose it was done* to carry the passengers.

151 3. Question. State, if you know, whether there was much or any passenger travel over the road?

Answer. There was some.

4. Question. You have stated in your cross-examination that you were not sure for what length of time this service was performed with one horse and buckboard; can you state any definite time and in what manner this service was performed?

Answer. I don't think I could, as I don't remember the dates.

5. Question. Can you approximate the time in which the service was performed with one horse and buckboard on alternate days?

Answer. As I said before, I can not remember dates. It may have been three or four months or more; I am not sure they run that long.

Recross:

1. Question. In your direct examination you state that you suppose that the coaches were run for the purpose of carrying passengers more than for carrying the mails. Do you know of your own knowledge that that was the reason which induced the contractor to put on the four-horse coaches, and might they not have been put on on account of the weight of mail between Point of Mountain and Mesilla?

Answer. As I stated before, their intention I know nothing about, but supposed that was what it was done for. From Point of Mountain to Mesilla I know nothing about the weight of mail, and I do not know whether that induced it or not. When I say that, I suppose that is what it was done for—I mean for passengers.

Further deponent saith not.

THOMAS STEELE.

152 WILLIAM SKINNER, witness for the plaintiff, being duly sworn, deposes and says:

1. Question. State your name, age, residence, and present occupation.

Answer. William Skinner; age, forty-six years; residence, Tucson; present occupation, miner.

2. Question. In what business were you engaged and for whom were you working from and after July 1st, 1878, and how long did you remain in his employment?

Answer. I was driving stage for Kearn & Griffith, I think, for nearly one year.

3. Question. State between what points you drove and how long were you driving on said route?

Answer. From Tucson to Florence. I think for about one year; this was on the Fort Worth and Yuma route.

4. Question. State in what manner the service of carrying the mail was performed on this portion of the route during the time you were driving?

Answer. With a two-horse hack.

5. Question. At what rate of speed did you drive when you commenced driving, and was the rate of speed ever increased afterward?

Answer. Between four and five miles per hour. It was not increased afterward that I was aware of.

6. Q. Was anything ever carried on the route beside mail; if so, state what and how much?

A. It was regular passenger and express route. I can't state how how much; they had a fair travel. The amount of express matter varied, and it would about stand the mail off.

153 7. Q. Were you in any manner connected with the stage company on this route after this period; if so, state how; and state, if you know, the amount of mail that was carried over this route, and what means had you of knowing the amount?

A. I was relieved from here and sent to Kanyon station and tended stock there. I remained there about six or seven months, but am not positive as to time. I cannot tell as to amount of mail carried while at that station, as there was no change of mail there and I did not see it.

8. Q. Do you know the amount of mail carried over that portion of the route on which you drove during the time you were driving?

A. I know the amount, but cannot state it in pounds.

9. Q. If mails only had been carried, in what manner could the service have been performed making proper schedule time?

A. It could have been carried easy by two horses over the portion of the route which I drove.

10. Q. Could the service have been thus performed from July 1st, 1878, up to the time of completion of the railroad to Tucson?

A. Yes, sir; I think it could.

Cross-examination by Judge McCLURE, for defendants:

1. Q. How long do you say you drove between Florence and Tucson?

A. I think about one year, but I cannot recollect positively.

2. Q. During all that time did you drive only two horses?

A. That was all, sir. Occasionally I drove four horses from one station to another, but they were not the regular team.

3. Q. Did the four horses of which you have spoken carry the mail?

A. Certainly, it was in the coach.

154 4. Q. Coming out of Florence did you ever have four horses to the coach carrying mail.

A. Yes, sir; I did.

5. Q What is the distance from Tucson to Florence?

A. It was considered in those days seventy-five miles.

6. Q. How many stations between Florence and Tucson?

A. Two.

7. Q. Are you positive there was not more than two?
A. Yes, sir; I am positive.
8. Q. Name them?
A. Desert Station and Wheat's.
9. Q. Was there not a station at Picach's?
A. It was a stage station, but not in my time.
10. Q. When was that station established?
A. In 1872.
11. Q. At what point did you keep a station?
A. I kept a station at Mountain Springs, in California.
12. Q. You have stated you kept stock at Canyon station; state how far that is west of Florence?
A. I judge nearly one hundred miles.
13. Q. Where did these extra horses come from which you used in go-out of Florence and Tucson?
A. They were surplus horses belonging to the company.
14. Q. Was the mail carried daily between Florence and Tucson during the time you were on the road in two-horse vehicles all the time?
A. Yes, sir.
15. Q. You have already stated that you went out of Tucson and Florence with four horses; how do you reconcile this statement with the declaration in your previous answer that the mail was carried all the time with two horses?
A. The four horses which I drove out of Tucson I only drove to Desert Station, and from there on I drove two, and in coming out of Florence I drove four horses to Wheat's, and from there in I drove two.
16. Q. How many horses were kept at Florence?
A. Between four and six most all the time.
17. Q. How many at Wheat?
A. I don't know. There were six standing horses there all the time, and the company had quite a number of other horses there.
18. Q. How many at Desert Station?
A. There were six or eight there. There might have been surplus horses, but not that I know of.
19. Q. How many at Tucson?
A. I think there were six at Tucson, which belonged to Kerrens and Griffith.

Redirect:

1. Q. In your cross-examination you have stated that you drove four horses out of Tucson to Desert Station and two from there on to Florence, and four out of Florence to Wheat Station, and two from there to Tucson; state if you did this every day. If not, how often did this occur?
A. I did not do it every day; it only occurred once during every service with the company?

Further deponent saith not.

WILLIAM SKINNER.

MATIAS ESTRADA, witness for the plaintiff, being duly sworn, deposes and says:

A. Cabello being first duly sworn as Spaoish interpreter.

1. Q. State your name, age, residence, and present occupation.

A. Matias Estrada; I live on the San Pedro; am fifty years of age, and am a farmer.

2. Q. Have you been engaged in carrying mail; and if so when, and for what length of time, and between what points?

A. I have been engaged in mail-driving when Tully, Ochov & Co. had the mail contract; first for Tully, Ochov & Co., and next for their successors for a little over two years; four or five months for Tully, Ochov & Co. and balance of the time for their successors. Part of the time from Tucson to Point of Mountain, part of the time from Tucson to Trace Cabazos or Willow Springs, and part of the time from Pantano to Camp Borin.

3. Q. What character of vehicle and how many horses did you drive?

A. I was driving buckboard with one animal. After a time they cut the two hind wheels off and I drove two wheels.

4. Q. Did you drive at any time more than one horse; if so, when and for how long?

157 A. After the railroad got to Pantano and Benson I drove two animals; from then on for four or five months I drove a four-wheel buckboard with a cover on.

5. Q. When you drove two animals did you carry anything else besides mail?

A. Yes; I used to carry passengers and freight when there was any to carry.

6. Q. If you had carried nothing but mails would it required the two horses?

A. No.

Cross-examination by Judge MCCLURE for defendants:

1. Q. Of what nationality are you?

A. Mexican *a.*

2. Q. Can you read or write?

A. No; I can write my own name, that is all.

3. Q. In what year were you born?

A. I don't remember.

4. Q. In what year did you drive for Tully, Ochon & Co.?

A. I don't remember; think it was in 1877 or 1878. I know it was the same year Tully, Ochon & Co. received or had the contract.

5. Q. Do you know the name and character of an oath?

A. Yes, sir.

6. Q. State it and the penalty for violating it.

158 A. A falsehood is a great crime; not to tell the truth is a great crime. A man that tells a falsehood should be punished. I do not know the legal penalty.

7. Q. Can you state what the church teaches becomes of persons after death who testify falsely?

A. I know that a false oath is a crime, as I have learned from the religion of the church, but I do not know what the punishment is that God applies after death.

In re-examination-in-chief, in response to question No. 3, I desire to state, in addition thereto, at the time I was driving the two wheels I carried nothing but the mail, as at that time the passenger travel was carried on stage. This was after the railroad got to Tucson.

Cross-examination continued:

8. Q. Do you believe that a priest of the Catholic Church, its bishop or cardinals, has power to condone the crime of perjury?

Question objected by plaintiff as irrelevant and incompetent.

A. No; only God.

Further deponent saith not.

MATIAS ESTRADA.

C. H. KENYON, a witness on the part of the plaintiff, being duly sworn, testified as follows:

Examined by J. W. HOUSE, district attorney:

Question. Where do you reside?

Answer. At Globe, Arizona.

Q. How long have you lived there?

159 A. About six years.

Q. Have you ever been engaged driving a stage; if so, when and for whom?

A. For Mr. Moore and for Kerrens & Griffith.

Q. Now as to Mr. Moore at what time did you drive for him?

A. In '76 and '77.

Q. Who succeeded Moore?

A. Kerrens and Griffith.

Q. After you quit driving for Moore did you continue to drive for Kerrens & Griffith over the same route?

A. Yes, sir.

Q. Between what points did you drive for Kerrens and Griffith?

A. Between Florence and Tucson.

Q. That is from Tucson west toward Yuma?

A. Yes, sir.

Q. What was the distance you drove?

A. Seventy-five miles.

Q. Between what points?

A. Florence and Tucson.

Q. How long did you continue to drive for Kerrens and Griffith after they succeeded Moore?

A. I drove, I think it was until in the fall I went east.

Q. Do you recollect what year that was?

A. As near as I can recollect it was '78.

Q. How many animals did you drive?

160 A. I drove two.

Q. What was the weight of the mail carried by you?

A. The weight of the mail varied; going east it was heavy and going west it was not as heavy.

Q. Give about the weight of the mail coming east and going west.

A. Sometimes going east it would be very heavy on account of washouts on the railroad, and it would be as much at two teams could pull in two coaches. When running along regularly there was two or three hundred pounds.

Q. Regularly three hundren or four hundred pounds?

A. Yes, sir; two hundred or three hundred.

Q. Going east or west?

A. Going east. Going west it was not ss heavy.

Q. About what was the weight of the mail going west?

A. About seventy-five to one hundred pounds—perhaps more or less.

Q. Now you say you drove two-horse stock all the time you were driving?

A. Yes; unless it was some time when I led some horses on the road to different places to change stock.

Q. When there was a washout the mail was extraordinarily heavy?

A. Yes, sir.

Q. Did you have to use more thao two horses in carrying that mail?

A. No, I never did when I drove on the road.

Q. What was the carrying capacities of the coaches used by you for passengers?

A. Each seated four inside.

161 Q. And any outside?

A. One could ride outside; yes, sir.

Q. Well, on this line did you carry anything except passengers and mail?

A. Wells-Fargo express matter.

Q. Whose express matter?

A. Wells-Fargo & Co., of San Francisco.

Q. Did you carry any passengers?

A. Occasionally a few passengers.

Q. During the time you were driving on that part of the line, which were the heavier, the passengers and express or the mail?

A. Right along all the time, do you mean, on the average?

Q. Yes, sir?

A. Well, going east the mail would be the heaviest; going west, on account of the paper mail, perhaps about a stand-off, as near as I can recollect.

Q. At what rate of speed did you drive while you were on the line?

A. Well, I used to drive pretty fast on my portion of the road, on account of having a good road, some five or five and a half miles an hour, so as to give all the time I could to the coach that went through to the Gila Bottom; that was generally behindhand.

Cross-examination by JOHN MCCLURE, attorney for defendants:

Q. Speaking about the mails: Now, what amount of merchandise passed through the mails, if you included it in the estimate you made of the mails?

161½ A. Well, there used to be a great deal of merchandise going through.

Q. Did you include that in your statement of the weight?

A. If I took that.

Q. Of course that was mail and had to be hauled; if you took the merchandise in, as usual, how much would it aggregate?

A. Well, sometimes it couldn't be hauled. I didn't think of that They used to buy their goods there at Tucson, and sent it through at the rates of freight that I used to haul to Decatur; such as shoes, shirts, &c., &c., came through the mail in that way. I didn't call that mail; I never did.

Q. That was all mail which the contractor was bound to carry for the Government?

A. I know that at Maricapo Wells and the men at headquarters used to get very angry about them sending so much teas, coffee, toys, shirts, and packages of all kinds, through as merchandise.

Q. Boots and shirts?

A. Yes, sir; boots and shirts; I have seen them.

Q. About how much would that amount to?

A. Well, I have seen sometimes a thousand pounds of that stuff.

Q. A thousand pounds at your station?

A. Yes, going west toward Tucson.

Q. Now then, when you put that upon the coach, what was the capacity of the coach for carrying passengers?

A. Well, there was no seat; it would be sometimes so a passenger could hardly get in.

162 Q. Could one get in?

A. Sometimes they couldn't get in, and would have to lie over until the next time.

Q. Now, speaking about the washouts on the railroad, then they would bring two mails?

A. Yes, sir; that always made big mails.

Q. The washouts occurred very frequently didn't they?

A. Yes, pretty often. The road was now and every raid would make a washout.

Q. Are you not mistaken about the fact that Griffith took the mail in 1878; now, was not Moore in a failing condition and didn't Griffith really take it before the 1st of January, 1878?

A. I am pretty sure Moore had charge of it in '77, but I can't remember, it was so long ago, I believe nine years ago.

Z. I merely call your attention to it. Can you tell me whether it was not in 1877, that Griffith took charge of it?

A. It might have been.

Q. Do you recollect seeing him on the route superintending?

A. Yes, sir.

Q. Now how many teams were on the route between each of these stations?

A. Between Florence and Tucson I had two, and the other man had two; two at the stations and one going. There was three of us driving there.

Q. Why did you have two at each station?

A. To perform the service. We had two teams.

163 Q. Well now, at Tucson, how many horses were kept there?

A. There were four or six; I have forgotten; regular horses were kept there doing duty.

Q. Any extras?
A. Yes, sir.
Q. How many extras?
A. Well, they generally had at a place of that kind two or three.
Q. Well, now, the first station out from Tucson going toward Florence?
A. Pecatsa—I believe the first was Desert.
Q. Well, what was the distance to that station going west from Tucson?
A. About twenty-three miles I think.
Q. How many were there?
A. I think there was six; four or six; I think six.
Q. Any extras?
A. Yes, there was extra horses at that station.
Q. Do you know why they were kept there?
A. They wanted them kept at all the stations, and I suppose they were, so if a horse gave out they could turn him out and take another.
Q. State whether that was a country where you could hire a horse to use in place of a lame one, for example?
A. No sir, you couldn't; at Desert there was none to be had.
Q. How many miles was it to where you could get another horse?
A. Tucson, twenty-three or twenty-five miles.
Q. Could horses be bought in that country, along about Desert station?
164 A. Not working horses. There was some very small saddle-horses.
Q. Ponies?
A. Yes, sir.
Q. Not horses fit to do that work?
A. No, sir. We had a place at Tucson where they turned out the horses they didn't want in the teams, and when we wanted stock we went there and got it, if there was not any at the station.
Q. Was there as many as thirty or forty kept there?
A. I think there was sometimes; it was the place where we turned them out.

Direct examination resumed:

Q. In your statement of the weight of the mail how did you distinguish between the merchandise mail and the paper mail; as a matter of fact, was it not all in sacks?
A. Well, there would be sacks frequently with the ends pulled open so we could see it was merchandise.
Q. Did you not state in your examination-in-chief that the paper mail and other mail averaged about three hondred pounds in going in one direction—that is, that it amounted to that sometimes?
A. Yes; I think I did.
Q. Now, I understand you to say that you didn't know the paper mail from the merchandise mail until it was put out at its destination?
A. I didn't think about it; I supposed it was the paper mail and the letter mail; I didn't give the merchandise a thaught.
Q. How could you make a distinction; was not the merchandise and the paper mail ald put in the same sack?
165 A. Yes; all in the same sack; and there was times when the merchandise and letter mail would be together in the same sack.

A. If I took that.

Q. Of course that was mail and had to be hauled; if you took the merchandise in, as usual, how much would it aggregate?

A. Well, sometimes it couldn't be hauled. I didn't think of that They used to buy their goods there at Tucson, and sent it through at the rates of freight that I used to haul to Decatur; such as shoes, shirts, &c., &c., came through the mail in that way. I didn't call that mail; I never did.

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A. I didn't think about it; I supposed it was the paper mail and the letter mail; I didn't give the merchandise a thaught.
Q. How could you make a distinction; was not the merchandise and the paper mail ald put in the same sack?
165 A. Yes; all in the same sack; and there was times when the merchandise and letter mail would be together in the same sack.

Cross-examination resumed:

Q. The merchandise mail was usually carried in sacks without locking?

A. Yes, sir.

Q. Occasionally there would be a package put into a letter sack?

A. I don't remember.

Q. And if there was enough merchandise mail it would be put in without being locked so that anybody could see it, and that was characterized as merchandise and not called mail?

A. Yes, sir.

Q. [By Mr. HOUSE.] Was not the paper mail put into the same kind of sacks as the merchandise mail?

A. Yes, sir.

Q. And you never saw it until it was emptied out?

A. Yes, sir.

CHARLES S. CLARK, a witness for the plaintiff, being duly sworn, testified as follows:

Examined by J. W. HOUGE, district attorney:

Question. Where do you reside?

Answer. At Tombstone, Arizona.

Q. Do you know this line or route that Chidester run, that was
166 known as the line from Dort Worth, Texas, to Yuma, Arizona? Do you know about the time the mail was carried over it?

A. Yes; I don't know who the parties were.

Q. Did you ever travel over the line or any portion of it?

A. Yes, I travelled from Forth Worth to Silver City.

Q. Where is Silver City?

A. In Grant County, New Mexico.

Q. When did you travel over that section of country?

A. In April and June of '77. That is, I went over that portion of the line. I didn't know who carried it. I didn't know anything about that.

Q. What was the character of the country from Fort Worth to Silver City?

A. It was a very good road indeed.

Q. Have you ever travelled over the road from Forth Worth to Yuma?

A. I have not been down the road below Gila Bend; I have been from Fort Bowie to Silver City on the route.

Q. Where did you live before you moved to that country, Mr. Clark?

A. I was born in New York, and went to Kansas, and lived in Missouri awhile, and lived in Texas, and went from Texas to Arizona.

Q. Have you had such experience in horses as to give you a knowledge of their capacity?

A. I have had dealings in horses more or less since the time I went to Kansas. I bought them.

Q. I will ask you in regard to the climate of Arizona; what effect has it upon stock, if you know, so far as effects their enduring capacity?

A. From my experience in the climate of Arizona I consider that horses could do as much there, if not more, than at most any other
167 place with the same care and attention, which they hardly ever got.

Q. In the summer got to one hundred and ten and one hundred and fifteen degrees?

A. Yes, sir; in places. Tucson is very hot, and Phœnix is very hot.

Q. How long did the hot season usually continue?

A. That varied. It comes on in March. Long summers.

Q. During the hot season what effect did the extreme heat have on stock?

A. Stock could stand it as well or better than rainy weather, owing to the climate. Where the temperature is very high they stand it better. My stock stood it well. I had my stock there stopping at Phœnix during extreme hot weather harvesting.

Q. To what extent did you have rains there?

A. Sometimes the rains were pretty hard, we have very severe rains *rains* there, which last all the way from an hour up to four and five or six hours, sometimes longer. The rains do not effect the roads much, except in the black lands, and there it makes them muddy.

Q. How long a period do you frequently have there without any rains at all?

A. The longest period since I have been there occurred, I think, commencing in '78 or '79, in southern Arizona, there was nearly eighteen months that we had very little rain; of course when we had no rain it affected the vegetation and cattle had to be cared for more, and of course they suffered more. When we had very little rain we had a dry atmosphere, but was not so bad at other places. They had rain at Tucson, but not a very great amount; it was a dry year.

168 Cross-examined by JOHN MCCLURE, att'y for defendants.

Q. What is your business?

A. Postmaster at Tombstone.

Q. How long have you been postmaster?

A. About the first of November it will be a year.

Q. Where did you live prior to the time you became postmaster?

A. At Tombstone.

Q. For how long?

A. Well, I went to live there permanently in 1880. I had been there previously. My family were in California but had not permanently located.

Q. What did you say was the state of the thermometer at Tucson, say along in May?

A. I didn't state that I recollect.

Q. Well then please state it.

A. I don't know; the thermometer would vary, and one thermometer would differ from others; would indicate different degrees. But have known the thermometer there along in May and June as high as one hundred and eleven degrees.

Q. I understand you to say you have been as far west as Gila Bend?

A. Yes, sir.

Q. How does it stand at Gila Bend?

A. Well, it stands some higher; when not in the shade it is very hot, and the thermometer comes up as high as one hundred and fifteen in the shade.

169 Q. And you think the hotter it is the better the horses stand it?

A. I don't think I said that.

Q. I understood you to say they got along better in the hot weather than during the rainy season.

A. Well, that was my own experience with my own stock. I didn't intend to say that.

Q. How far is Gila Bend from Tucson?

A. My recollection is it is about one hundred and forty-five miles, perhaps more. It is owing to the way you travel; by stage it might have been a good deal more.

Q. Do you know how the thermometer stands at Yuma?

A. Never have been there and only know from what I hear.

Q. You say in 1878 and 1879 there was no rain there?

A. There was no rain in southern Arizona.

Q. And southern Arizona is where this route ran?

A. This route ran through the southern tier of counties—Yuma County, and Pima County, and Cachise County. It was all Pima County when I was in the country in '79.

Q. What effect did the hot weather have upon the forage of the country generally?

A. I don't know. It is not a very extensive grain-growing country.

Q. I understand you to say you harvested there?

A. I didn't say I ever done it. I had hired my teams out to harvest.

Q. What were they harvesting?

A. Harvesting wheat and barley.

170 You saw them?

A. Yes, sir.

Q. Were you in Tombstone *and* May of 1886?

A. Yes, sir.

Q. You was postmaster at that time?

A. Yes, sir.

J. M. DEAN, a witness for the plaintiff, being sworn, testified as follows:

Q. Where do you reside?

A. At Marfa, Texas.

Q. Do you have any official position?

A. Yes, sir; I am district attorney for the State of Texas.

Q. Where did you live in eighteen hundred and seventy-seven, eight, and nine?

A. I lived in that country. In 1877 in Lee County; in '78 and '9 I lived in San Antonio.

Q. Was you ever engaged in any capacity on the mail route from Fort Worth to Yuma? If so, please state in what capacity and for whom you worked?

A. Yes, sir; stage-driver for C. Bain & Co.

Q. Between what points?

A. Between Fort Davis and Van Horn station, on the Overland stage route.

Q. What was the distance between those two stations?

A. Approximately, about eighty miles.

171 Q. When did you commence working for C. Bain & Co., and when did you quit?

A. I commenced in I think in November, '78—it was after Christmas I know—I think about the 10th of January.

Q. About the 10th of January, '79. How long did you continue to work for them?

A. Until about the middle of May, '79.

Q. About four months?

A. Yes, sir; just about.

Q. How many horses did you drive while you were driving?

A. Four—that is, mules.

Q. How many horses to the vehicle was there over that portion of the route?

A. Two.

Q. From what stations?

A. Two from Fort Davis to El Muerto, between thirty-eight and forty miles, and two from there to Van Horn stations, which is about thirty-seven to thirty-nine miles.

Q. There was only one station intervening between those two stations?

A. Yes, sir.

Q. The service was performed by a two-horse vehicle?

A. Yes, sir; two horses—mules.

Q. Was there any other driver on that part of the line besides yourself?

A. There was three or four drivers in all.

172 Q. How many horses did these men drive?

A. The same as myself.

Q. Now, can you state the number of men and animals employed on that part of the line over which you were travelling during the time you were there?

A. Yes; I think so.

Q. Please do so, commencing at Fort Davis and going west; the number of men and animals at each station as you go.

A. There were four men, drivers, from Fort Davis to Van Horn station. The road was seventy-five or eighty miles long, and these four men had four head of stock—four mules. They drove from Fort Davis to El Muerto station; that was the entire stock. At El Muerto they had a stock tender, and from there each man had two mules to drive to Van Horn, thirty-eight or thirty-nine miles, and at that place there was one man. That was called the "House" station. The drivers took care of their own stock. At that place there was one driver who didn't have any connection with the route further than to supply water to the station, which he hauled from Eagle Springs. He was a sort of an alternate, going one day and back the next with a load of water.

Q. How many horses did this man that hauled water use?

A. Four mules.

Q. Now, were there any other extra stock on that part of the line besides those you have mentioned?

A. I think not, sir. There might have been a broken-down animal or something of that sort, but not in the sense of the word "extra," there was nine.

Q. What rate of speed did you make on that part of the route?

173 A. About five miles an hour.

Q. What was the average weight of the mail going each day?

A. Well, it would average, I suppose, between twenty-five and forty pounds. Going west there was not so much as coming east.

Q. What would, perhaps, the heaviest mail be on that part of the line during the time you drove?

A. I don't know; I suppose it would amount to some fifty pounds. Well, once and awhile we had an exceedingly heavy paper mail. I don't exactly know; it varied, say, forty or fifty pounds going west; we would not get that much going east; there was no paper mail going east at all.

Q. How often would the paper mail that you speak of go over the route?

A. Sometimes we got a heavier mail that others; sometimes these circulars would be sent from mercantile houses in the east, and the mail would be heavier.

Q. Including this paper mail altogether, what would it average?

A. Well, I don't suppose it would be over fifty pounds; that is to the best of my recollection.

Q. In performing this service you say that you drove at the rate of five miles per hour; did that rate of speed seem to be exhaustive on your stock or not?

A. With the exception of one mule, I drove the same team four months; one of the teams a pair of broncos, that I drove one or two trips at the Van Horn end. There is the hardest driving we had through what was called the Van Horn Flat, about twelve miles; that was very heavy dragging; you can't stop that kind of a team; they just keep going as long as they are able to go.

Q. When you drove a team over that line when would that same team return?

174 A. Well, going over at night they would leave Fort Davis in the evening, like, arriving at El Muerto some time in the night, and stay there and come back the next day. I made a trip and a half a week; I think it would average that. There was four drivers.

Q. Have you been on any part of the route besides the part you have driven over?

A. Yes; I have been over that part from Fort Worth to Fort Concho, and have been over the part run by C. Bain & Co. as far west from San Antonio as Eagle Springs, and I have been as far west as El Paso.

Q. What was the character of the roads on that portion of the route over which you have passed, commencing at Fort Concho?

A. From Fort Concho to Fort Davis the road was a considerable distance out of Fort Concho is a sort of mesquite prairie, and between Fort Worth and Concho it is pretty much the same character, except at Pecos River, which is very sandy and a little heavy in wet weather. The balance of the road is firm and gravelly; I have heard it compared to McAdam.

[By Judge McCLURE.]

Q. At what point?

A. That would go almost to Fort Quitman—between Fort Quitman and Concho. The roads were pretty good. There was some heavy road near Pecos River and right immediately west of Fort Concho across a mesquite prairie.

Q. What is the distance between Fort Concho and Fort Quitman?

A. I don't know; I can tell by computing it. I think it is some two hundred miles to Fort Stockton, and about seventy-eight to the next station, Fort Davis; going west from Fort Davis the next station—I have forgotten the distance—twenty-six or twenty-eight miles.

175 Q. Nearly three hundred miles?

A. Yes; I think it would be over that. I could tell by adding it.

Q. How was the road from Quitman to San Eluzario?

A. That was up the Rio Grande Valley, and is very heavy and sandy in some places.

Q. What is the distance between those two points?

A. I don't know exactly. I don't know how far it is from Quitman to Camp Rice; it would be over twenty-five miles. I never went over that road. When I went to Eagle Springs I cut across, as it is a much nearer way than to go by the old stage road.

Q. Do you know how the service was performed over any other part of this line, aside from that over which you drove, by passing over it?

A. Yes, sir; from Fort Concho to Fort Davis was one-horse buckboard on one side, and the other side was four horses; that is, part of the time.

Q. Do you know from El Paso to Van Horn how the service was performed?

A. Van Horn to Quitman, both sides two horses, and Quitman to El Paso, one side two horses, and the other side, sulkey, one horse.

Q. When a sulkey was used that was a one-horse vehicle?

A. Yes, sir.

Q. Were the horses that were driven by you, that is, the stock that was used on the line over which you drove, sufficient to perform the service at all times?

A. Yes, sir.

Q. Did you carry over the line any passengers and express matter?

A. Both.

176 Q. To what extent did you ordinarily carry passengers?

A. There didn't anybody go over the line that could help it, people had to go to court and things of that sort, lawyers and witnesses, and frequently people would go through from San Antonio and Fort Worth to Arizona.

Q. That was a sparcely-settled country at that time?

A. Yes, sir. Not settled at all. There was no settlement between Fort Davis and Camp Rice.

Q. What was the weight of your express matter?

A. I don't remember about that. It didn't amount to much—probably it didn't amount to as much as the mails.

Q. How many pounds of baggage was allowed to each passenger?

A. Seventy-five. But this was not on the route when I was there. C. Bain & Co.'s headquarters was then at Ben Ficklen.

Q. Their line commenced at Fort Concho?

A. Yes, sir, and connected with Fort Worth.

Q. Our inquiry is confined to this line.

A. Well we carried baggage according as we had instructions from this line.

Q. Whatever came over your line?

A. Yes, sir.

Cross-examination by JOHN MCCLURE, attorney for defendants:

Q. What character of troops were stationed at Fort Davis?

A. United States troops.

Q. Were they colored?

177 A. Negroes and white troops, both.

Q. About how many?

A. Well, at different times they were increased and decreased.

Q. State as near as you can the highest and lowest number?

A. Sometimes there was not more than two or three companies, and sometimes there was ten or twelve. I think at the time I was driving there was about six companies. I think they were increased at the time, but I won't be positive.

Q. Do you know how many troops were stationed west of Fort Davis?

A. No sir, I do not.

Q. Do you know how many troops were stationed at Concho?

A. Yes, I think so. There were six or eight companies to the best of my recollection.

Q. Was there what was called merchandise carried in the mail?

A. Well I can't tell about that. I had nothing to do with the mail until it was put in the vehicle. The postmasters or the clerks attended to the mails, and the driver took it and went on with it.

Q. I understand you went from Concho out to Fort Davis. State the character of the country between Concho and Fort Davis, as to its population and what was produced along the line of the route?

A. West of Concho at that time there was nothing produced. That is a mesquite prairie country and there was actually nothing in that country except a few buffalo, until you got to the Pecos River. At the Pecos crossing was a ranch and there was probably some others above

178 and below there, and then until you got to Fort Davis you didn't see any more farms, and it is the same to this day, until you get to the Rio Grande Valley.

Q. What is the distance to the Rio Grande Valley?

A. I suppose it is one hundred and fifty miles. It is seventy-eight miles to Van Horn. It would not fall very much short of one hundred and sixty miles to the Rio Grande Valley.

Q. Could not the through mails have got by you without you knowing it?

A. Not to any great number.

Q. And could not mules and horses have got by you?

A. Well, at that time it was an Indian country all the way from Pecos River to Camp Rice. There was no stock there after leaving Van Horn except what was drove out, four going east and four going west, two of these teams all the time, and as a matter of course there was a water team.

Q. That would make twelve or fourteen or fifteen?

A. No, there could not have been more than ten or twelve at any time There was a man going west who took the team going back, and left his there, and the man who came next from the east took the team on home. There was only four teams there, not including the water teams, which would make eight.

Q. I understand you to say you made a trip and a half a week?

A. About that, I think there was four men driving. When one would come in another would go out. I think that would average about that.

Q. Why was it you kept a water team at Van Horn?

A. Well, we didn't have any water there and had to haul water.

179 Q. How far was it hauled?

A. Twenty-six miles, from Eagle Springs.

Q. Was that the closest water you had?

A. That was the closest we had any certainty of. We hauled it eight down the stage road.

Q. How did you get your forage distributed from Fort Davis west?

A. The hay was made on the route and the grain was hauled in there on stages.

Q. What proportion to the weight that you carried daily did this grain bear to the mail?

A. Well, I had not finished my answer. Sometimes we sent what we called a grain wagon over the road. And whenever this grain wagon went over the road, of course it distributed the grain. They sometimes, however, got out, and we had to carry it on the stages.

Q. I understand you to say, there was a grain wagon there that hauled forage from one station to the other?

A. Yes, once and a while.

Q. And at other times it was carried from station to station on the coaches?

A. There was no particular grain team at all, but for instance up the Rio Grande Valley there was a contract with the people there to put in grain at these various stations. Of course we could get it very cheaply done, even west of El Muerto. We knew the company would have the grain delivered somewhere on the road, and that grain would be hauled in box-wagons or else by stage; we bought this grain as we could buy it, for instance, from men in the Rio Grande Valley, or Tower Creek, Camp Rice, and Fort Stockton.

Q. About what was the weight that you had to haul when you hauled it?

180 A. I don't know.

Q. Would it weigh as much as the mail?

A. When I hauled any out it would weigh a great deal more.

Q. It weighed a great deal more, did it?

A. Yes; once in a while there would be a sack of grain from Fort Bowie to be hauled to El Muerto, and there it would be fed.

Q. Now, about the passengers being allowed seventy-five pounds of baggage, were they ever allowed over *of* seventy-five pounds of baggage?

A. Yes; some had a great deal more.

Q. It must have been before I got there, then.

A. No, sir; but they didn't come from Arkansas. [Laughter.]

Recalled and redirect examination resumed:

Question. Mr. Dean, I have prepared a rough map of this route going west from Fort Worth; this represents the part of the route where the service was performed by Mr. Bain. I will ask you if you have any personal knowledge of the number of men and animals over any part of that line aside from that over which you drove?

A. I have been over the route and seen the animals and men on the route.

Q. How frequently did you go over the route during that time?

A. I went over that route in seventy-eight, and went over the route twice in seventy-nine, and twice or three times in eighty, I don't know remember which.

Q. Now, state from what point you could give the number of men and animals at the various stations, aside from the part over which you drove?

181 A. I could name them from Fort Concho to Fort Davis.

Q. Please name the stations going west and give the number of men and animals at each station.

A. Starting out from Concho there were four drivers that drove to the station called Head of Concho. They had alternate days; two of those drivers drove four horses and the other two of the drivers drove two horses. From Fort Concho to the Head of Concho, one driver would drive to Johnson station and take another team and drive to the head of Concho station.

Q. You mean the service on that part of the line was performed alternately by two and four horse teams?

A. Yes, sir.

Q. What was the distance to the Head of Concho?

A. I don't remember exactly; it was forty-five to fifty miles. From there on I know the distance better. That has escaped my memory. From the head of Concho, the next run or station was Centralia, a distance of twenty-six miles. There was the same four-horse stock on one side and two-horse stock on the other. From Centralia to Pecos station, I think, was called forty-one miles; forty or forty-one. That was the same, as to the stock. At Pecos station we crossed the river Pecos, and then there was another driver who would take the coach and drive to Leon Holes. There was another station there, Es Condito, and Leon Holes, and the driver who took charge there with the same vehicle, drove with no change forty-two miles, from Leon Holes to Barella Springs.

Q. Now, state the number of animals that was driven on that portion of the line as you go?

A. Out from Concho there were two drivers that drove four-horse stock and two drivers that drove two-horse stock.

182 Q. That would be twelve?

A. And then from there on to the next station there would be twelve, and then from there on the next station it kept on that way. At Fort Davis they commenced using only two-horse stock.

Q. From Fort Davis there was only two-horse stock on both sides?

A. At Mesilla they had sulkies and two-horse vehicles. A sulkey was driven with one horse. With one horse they would drive to the Rio Grande Valley, Camp Rice, Elezario, Ysleta, Mesilla, and El Paso.

Q. What was the distance this line was performed by sulkies on days alternating with two horses?

A. That was to Rio Grande Valley. I don't know the distance. If I was to state the distance at all it would be from what I have learned since the time I went over that road. I don't know what it is.

Q. Then two-horse stock was used. What kind of horses were they?

A. They were not horses but broncho mules—very small mules, Mexican mules.

[By juror.] Such as they drive on the street cars here?

A. No; they are larger than those. The broncho mule is a small Spanish mule that has not been broken—wild. They can't be drove like mules here. They will run and may be kept in the road, but they keep running right on.

[By juror.] These are about the same here?

A. I never saw any that done it before I went down there; never saw anything that we would call a broncho. I have seen several different species of them in Texas.

Q. They are very small?

183 A. Yes, sir; not large; but they are very hardy.

Q. What was the character of the country along that line? Was that a section of country where the climate was very enervating on stock or not during the hot season?

A. No; that is a good country for any kind of cattle, sheep, horses, mules, and anything of that sort.

Cross-examination by JOHN MCCLURE, attorney for the defendants:

Q. You say that you did not drive west of Van Horn?

A. That is right.

Q. When was it that you first went from Van Horn to El Paso, driving over the route which the mail was carried?

A. I never went over that road at all.

Q. Then how can you state how many men and animals were employed and the amount of mail carried?

A. I did not state how many animals were employed.

Q. How can you state what you did state if you never went over the route?

A. Because I have talked with the agents and various persons on the route, and saw the sulkies coming in and going out.

Q. Then it was mere hearsay?

A. It is hearsay. I stated the number to the best of my knowledge, the same as if I had seen it.

Q. Have you been asked for any conclusion in the matter?

A. Not that I remember of.

Q. What is your profession?

A. I am an attorney at law.

Q. If you are an attorney at law you know for what purpose a witness is put on the stand?

184 A. Generally.

Q. And that he is to state only facts?

A. As he knows from his own knowledge.

Q. Then if you were to draw a conclusion as to what you had heard from others as to this stock, that would not be stating a fact within your own knowledge?

A. No, sir; not of my own knowledge.

A. NEELEY, a witness on the part of the plaintiff, being sworn, testified as follows:

Examined by J. W. HOUSE, U. S. district attorney:

Question. Where do you live?

Answer. I live in White County, Arkansas.

Q. How long have you lived there?

A. Thirty years.

Q. Have you had experience dealing in stock and carrying United States mail?

A. Yes, sir; for ten years. I carried the mails for four or five years.

Q. Between what points?

A. It was only a short line; about five or six years I think it was. The route was a short one, about thirty-five miles.

Q. Has your experience with horses been sufficient to enable you to judge of their enduring capacity and speed, their carrying capacity, drawing capacity?

A. Yes, sir. I have been using horses for years; that is, right straight along for the last ten years, every day.

185 Q. From your observations and experience could a horse be driven every day at a speed of five miles an hour?

(Objected to.)

Q. How far can a horse be driven every day for a number of days, regular service?

A. Owing to the horse.

Q. An average horse?

A. Well, I think a horse can be driven for twelve months every day from twenty to twenty-five miles.

Q. What speed would you make him make in driving that distance?

A. Well, I think a horse could make twenty-five or thirty miles and without being pushed make about five miles an hour.

Q. Q. When you increased the speed then how far could you drive him?

A. That would be owing altogether to what length of time you wanted to drive.

Q. Say for a year—a regular business?

A. I think a horse could be driven five miles an hour for a short time. He could not be driven that way but for a short time.

Q. How many hours could he be driven at that speed?

A. From three to four hours every day.

Q. In driving, say from three to four hours, at that speed, how much weight could a horse draw?

A. One horse or two horses?

Q. One horse.

A. In my experience I have used one horse and two horses in my work, and what I have had to do I have used some horses that you could put a big amount on.

186 We are talking just about the average horse of average weight; how much could they draw travelling at the speed and distance you have indicated?

A. Well, sir, I think they could pull, they ought to pull, not less than five or six hundred pounds.

Q. Do you mean one or two horses?
A. Two horses.
Q. Can a horse stand that character of service, continuously pulling a coach, without injury to him?
A. He could. I have never tried it, but I think he could.

Cross-examination by JOHN MCCLURE, atty. for defendants:

Q. How long have you used horses; I mean one team for what time?
A. I have drove a team of horses, or I have hired them drove, now, for eight years.
Q. And you have driven how many miles as an average day's service?
A. I have travelled four head of horses for four years straight out.
Q. The same horses all the time?
A. Not the same horses all the time.
Q. What did you change them for?
A. I was in the trading business and I sold them. I have travelled two horses for two years straight out.
Q. How?
A. Well, I would start from Searcy at eight o'clock or so and go thirty-five miles that day, and back the next, for four years.
Q. Working them every day?
A. Every day.
Q. Seven times a week?
187 A. No; six times; we laid over Sunday.
Q. Were you ever over the route from Fort Worth, Texas, to Yuma, Arizona?
A. I never was.
Q. Do you know anything about the stock they used in travelling over that route and the speed?
A. Not at all, sir.
Q. You know nothing about it?
A. No, sir.
Q. You only speak of your knowledge from your experience in Arkansas?
A. That is all.
Q. You don't undertake that a horse could make that speed in carryiny such service as you mention over the route we are speaking about?
A. I don't know anything about it worth talking about.
Q. You don't know whether they could do it down there or not?
A. No, sir; I don't know whether they could or not.

* * * * * * *

T. C. BLACK, a witness on the part of the plaintiff, being sworn, testified as follows:

Examined by J. W. HOUSE, U. S. district attorney:

Question. Where do you reside?
Answer. At this place.
Q. Where have you been living for the last fifteen or twenty years?
A. I have been in Arkansas for thirty years.
188 Q. Have you had any experience in the livery business, and in carrying the mails for the United States?

A. Yes, I have had a good deal of experience in the livery business. I never carried the mail very much. I have made short runs. I have purchased a good many horses and other stock; mostly horses.

Q. In your livery business and the experience you have had in carrying the mails, do you know anything about the enduring capacity of horses, and the speed they can make and the amount they can draw?

A. Well, I have a very good idea, I believe.

Q. From your knowledge and your experience in your business how far can a horse be driven daily without injury to the horse?

A. That would be owing a good deal to the roads, and the kind of vehicle, and a good deal owing to the horse.

Q. Do you know the average rate of speed for an average horse?

A. Well, on the roads in Arkansas three miles an hour would be good driving; some horses could make that.

Q. Over the average road how far can you drive a horse each day?

A. Well, from my own experience with a buggy horse——

Q. I mean with an average horse?

A. Over Arkansas roads, I suppose sixteen miles a day during the year.

Q. At what speed?

A. About four miles an hour for four hours in twenty-four. If he couldn't do it I would not have him, if I was running a stable.

Q. How much could a horse pull at that rate travelling that distance?

A. One horse or a pair of horses?

Q. One.

189 A. Well, over a level road one horse and a buckboard ought to carry from four to five hundred pounds, and at the rate of four miles an hour a pair of horses ought to carry a thousand pounds.

Q. Suppose you increased the speed to five miles per hour?

A. And you mean with the same weight?

Q. Yes; how far could a horse travel at that rate?

A. At what speed? You mean how many miles per hour?

Q. Yes, that is what I want you to state.

A. That would be owing to how far I had to drive. For instance, if I was going to drive them every twenty-four hours, two hours for six miles carrying eight hundred pounds to a pair of horses.

Q. How far would you drive them at the rate of three miles an hour every day?

A. Four and a half miles an hour. That would be thirteen and a half miles.

Q. With how much weight?

A. The same weight.

Cross-examination waived.

JOSEPH COCHRAN, a witness on behalf of the plaintiff, being sworn, testified as follows:

Examined by J. W. HOUSE, U. S. district att'y.

Question. Where do you reside?

Answer. In Washington, D. C.

Q. What official position do you occupy, if any?

190 A. I am a clerk in the Second Assistant Postmaster-General's Office of the Post-Office Department.

Q. Were you acting in that capacity in 1878 at the time the mail route from Fort Worth, Texas, to Yuma, Arizona, was let?

A. I was.

Q. In that capacity did you have anything to do with making the estimates at the time the service was expedited on that route?

A. Yes, sir; I made the calculations.

Q. Have you got that estimate with you?

A. Yes, sir; that is, the brief prepared at the time [exhibiting paper].

Q. Does that paper belong in the files at Washington?

A. Yes, sir.

Q. Is this the original?

A. Yes, sir.

Q. That, I understand you to say, is a brief made out at the time, and you as a clerk in the Department made that estimate?

A. Yes, sir.

Q. Mr. Cochran, as that is in your handwriting, please read it.

The witness reads as follows. (See Exhibit A.)

Q. Now, have you the original affidavit that was filed by Mr. Chidester?

A. I have [exhibiting paper], with his signature upon it showing that it was made by the contractor.

Q. Have you an affidavit made by Chidester concerning a part of that line?

A. Yes; there was another I found among the papers on that route west. The first here is a sworn statement upon which that state-

191 ment, upon which that calculation, was based.

Q. Have you another sworn statement made by Chidester?

A. There is one made as regards a portion of the line only.

By Judge McCLURE:

Q. Was this second affidavit, which appears to show the stock necessary between Mesilla and Yuma, was that acted upon by you in making the estimate?

A. No, sir.

Judge McCLURE. Then I object to that paper being introduced.

(Objection overruled; exception taken.)

The following papers were then read to the jury. (See Exhibits B, C.)

Q. Now, I wish to introduce a certified transcript that I want you, Mr. Cochran, to explain in certain particulars. That is a transcript from your Department, is it not?

A. Yes, sir; this is a transcript of what is called a route register, and then there is a pamphlet form issued, which are transferred into large registers we have there, in which the route is stated, and the various officers on it, with statement of other routes by which offices were reached. Then after the statement of the route and officers on it, and the amount of every bid, then follows a record of the orders made substantially and changes of schedules. This transcript in black ink was the offices named in the advertisement, and the red ink indicates the offices established after the advertisement. (The witness then read the various entries on the exhibit concerning route 31454.) (See Exhibit D.)

192 Q. According to this transcript it seems that route was 1,560 miles?

A. The advertisement specified the route to be 1,560 miles in length—the advertisement of November 1st, 1877.

Q. Did the Department afterwards get what is termed a distance circular, showing the distances?

A. Yes, sir. [Exhibiting paper.] I have got it with me. This shows it was 1,424 miles.

Q. Now in making your estimate I understand the calculation made in your Department was based upon the affidavit made by Chidester, showing the number of men and animals required to increase the service?

A. Yes, sir.

Q. And upon that basis it made one hundred and ninety-eight thousand dollars ($198,000), and that then the contractor proposed to take it for thirty-three thousand dollars ($33,000) less.

A. He proposed to take it for $165,000 additional instead of $198,000.

Q. Did you know whether that proposition of Mr. Chidester was in writing or not?

A. Yes, sir; it was.

Q. Have you made an estimate to show the number of animals and the number of men that would be required by the proposition for $165,000?

A. No, sir; I have not.

Q. Was you there in the Department during the time this service was being performed, after the contract was let?

A. Yes, sir; I was in the office.

Q. Was you the chief clerk in the Second Assistant Postmaster-General's Department?

193 A. Not the chief clerk. I was the clerk in charge of certain star routes in Texas.

Q. Who was the Second Assistant Postmaster-General at the time this contract was made?

A. Thomas J. Brady.

Q. Do you know of any contract being filed in the Department as a subcontractor under Chidester?

A. Col. Roots left a contract there with a request that it be not formally filed.

Q. Why was it not filed in your Department?

A. Well, Col. Roots requested that it be not filed—a request rather that it be not filed until he made a further request for it to be filed.

Q. What finally became of that contract?

A. It was returned to him.

Q. It was returned to Col. Roots?

A. Yes, sir.

Q. In point of fact it was never filed in the records of your office?

A. No, sir.

Q. And the reason why it was not done so was at Col. Roots request?

A. Yes, sir; I would like to make a little further explanation. I do not know that it was a subcontract. That was in 1878. I don't think that I ever looked at the document and I could not positively swear to an

individual name in it as being a subcontractor. Whether it was a subcontract or not I could not say positively.

The district attorney read to the jury the following power of attorney. (See Exhibit E.)

194 Q. There is another explanation Mr. Cochran that I wish you to make; on this register there is written in red ink an estimate of the distance as 1426, and there under it 293?

A. That is the first curtailment. There were further changes on the route from time to time.

Q. These curtailments were made, as I understand it, as the railroads, at one end of the line or the other, approached beyond the terminal points of the route, and then they deducted that distance?

A. Yes, sir.

Q. When they deducted the distance they of course deducted from the pay in corresponding proportion, and allowed the contractor one month's extra pay, as it existed before?

A. No; they only allowed a month's extra pay on the amount decreased.

Q. Then those figures along there merely indicate the curtailments?

A. Yes, sir; the decrease in distances that took effect from time to time.

Q. Have you a memorandum from your accounts from which you can show the amounts of fines and penalties that were inflicted upon this route?

A. No, sir; I have no information on that subject. Mr. Stone has a record of those things.

Cross-examined by JOHN MCCLURE, attorney for defendants:

Q. You stated in your examination in chief that Mr. Chidester made a written proposition; where is that proposition?

A. I hold it my hand, sir.

Q. Will you please read it to the jury?

195 The witness read the following proposition and endorsements thereon:

Washington, D. C. Aug. 5th, 1878.

Hon. D. M. KEY,
Postmaster-General:

SIR: I hereby agree to expedite the schedule oo route 31454, from Fort Worth to Yuma, so as to transport the mails each way in thirteen [13] days, for an additional compensation of one hundred and sixty-five thousand dollars per annum, added to my present pay.

I am, very respectfully,

J. T. CHIDESTER,
Contractor.

[Endorsed.]

31454] TEXAS, *Aug. 5th*, '78.

Contractor offers to expedite service so as to perform it by a schedule of departures and arrivals, not to exceed thirteen days running time each way, for $165,000 additional pay per annum.

[and]

The P. M. Genl. directs the acceptance of this proposition. Let the expedited service commence at the earliest practicable moment, the 15th inst., if contractor thinks he can do so, subject to deductions, &c., if he fails.

BRADY.

Plaintiff introduced in evidence the brief from the Post-Office Department, referred to in the testimony of Joseph Cochran, marked Exhibit A, and in words and figures following, to wit:

196 EXHIBIT A.

Date Aug. 5th, '78. State, Texas. No. of route, 31454. Termini of route, Fort Worth [Texas,] Yuma, [Ariz.,] Length of route, 1,560 miles. No. of trips per week, seven. Contractor, John T. Chidester. Pay, $134,000

Contract schedule time is seventeen days running time each way, and much complaint is made that such schedule time is much slower than under last preceding contract, when service embraced four different routes, of which this is a consolidation. It is represented that former time between Fort Worth and Yuma was three days, and that now it takes four and a half days to perform service between these points. It is also represented that service on the entire route should be performed in not to exceed thirteen (13) days each way. In behalf of Arizona Hon. A. P. K. Safford, governor, Hon. H. S. Stephens, Delegate, and numerous prominent citizens, merchants, and business men urge that expedited service be ordered without delay, and Hon. H. F. Page and Gen. C. Gorham, make the same request on behalf of the business interests of San Francisco and southern California.

Hon. S. B. Maxey refers to the importance of the route as regards Texas, and earnestly recommends that expedited service be ordered and maintained. Hons. J. W. Thockmorton, D. C. Giddings, John H. Reagan, and also Gov. Hubbard and other state officials, join in urgently requesting that the service be expedited *so* as to be performed in thirteen instead of seventeen days each way, stating that the importance of the route demands such improvement of the service. Hons. N. Cole and L. S. Metcalf, of Missouri, and board of trade of St. Louis, urge expedited service in
197 behalf of the commercial interests of St. Louis. Contractor submits sworn statement of the effect that seventeen days' schedule, as per contract, requires 92 carriers and 378 animals, total 470; and that 13 days' schedule would require 180 carriers and 986 animals, total 1,166, making an increase of 88 carriers and 608 animals, or a total of 696.

470: 696:: 134,000: 198,434, ?

which makes $198,434 additional per annum as pro rata for an expedited schedule of thirteen days.

Contractor offers to expedite to thirteen days for $165,000 additional per annum.

Plaintiff then introduced in evidence the affidavits of Chidester, referred to in testimony of Joseph Cochran which are exhibits B. & C, respectively, and in words and figures as follows, to wit:

EXHIBIT B.

[31454] TEXAS, *Aug. 3rd*, '78.

To the Hon. POSTMASTER-GENERAL:

SIR: To expedite the schedule upon that portion of route 31454, between Yuma and Mesilla, would require increase as follows: To requirements of present schedule, 44 carriers and 180 animals; to requirements of a six-day schedule, eighty-two carriers and 448 animals.

I solemnly swear the above estimate is true and correct to the best of my knowledge and belief.

J. T. CHIDESTER.

Sworn to and subscribed before me this 3rd day of August, 1878.

[SEAL.] S. F. AUSTIN,
Not. Pub.

(Endorsed:) Contractor submits sworn statement as to increase of stock and carriers necessary in order to expedite service on that portion of the route between Yume and Mesilla.

198 EXHIBIT C.

To the Hon. POSTMASTER-GENERAL:

SIR: To expedite the schedule upon route 31454, from Fort Worth to Yuma, will require increase as follows: Requirements of present schedule, 92 carriers and 378 animals; requirements of thirteen-day schedule would be 180 carriers and 986 animals.

I solemnly swear that the above estimate is true and correct to the best of my knowledge and belief.

J. T. CHIDESTER.

Sworn to and subscribed before me this 3rd day of August, 1878.

[SEAL.] S. F. AUSTIN.
Not. Pub.

(Endorsed:) Texas. 31454. Aug. 3rd, '78. Contractor submits sworn statement as to increase of stock and carriers that would be necessary in order to expedite so as to perform it by a schedule of thirteen days running time each way.

Plaintiff then introduced in evidence a certified copy of the route register referred to in the testimony of Joseph Cochran, which is Exhibit D: and is in words and figures as follows, to wit

EXHIBIT D.

H. D. L. 31454.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., Aug. 4th, 1883.

I certify that the annexed is a true copy of the record of route Number 31454, Texas, as it appears upon the books of this Department.

In testimony whereof I have hereunto set my hand and caused
199 the seal of the Post-Office Department to be affixed the day and year above written.

[SEAL.]

N. D. NOYES,
Acting P. M. Gen'l.

Texas—(31,140, 31,470, *and parts of* 39,106 *and* 39,110.)

31454.					
From	Fort Worth	Tarront	Tex	31009, 450, 1, 2, 3.
	Weatherford	Parker	Tex	514, 515, 491.
	Cleark Fork, { est. Mar. 8, '78. dis. May 13 '78.	....do	Tex	
By 20	Bear Creek	....do	Tex	
21	Thorps Springs	Hood	Tex	31444, 661.
" 3	Granbury	....do	Tex	31469, 475, 517.
15	Paluxy	....do	Tex	
11	Rock Falls	....do	Tex	
8	Stephensville	Eroth	Tex	31449, 474, 6, 7, 8, 9, 550, 629.
14	Dublin	....do	Tex	
8	Proctor	Comanche	Tex	
14	Comanche	....do	Tex	31471, 31483, 4, 5, 6, 7.
17	Blanket	Brown	Tex	
13	Brownwood	....do	Tex	31218, 222, 490, 499, 31505, 576.
15	Jim Ned (dis. Oct. 13, '79)	....do	Tex	
	Thrifty (est. Nov. 9, '80)	....do	Tex	
From	Eastland	Eastland	Tex	31477, 481, 2, 3, 576, 009.
200 15	Camp Colorado	Coleman	Tex	31484.
	Caddo Peaks	Callahan	Tex	31222.
	Abilene	Taylor	Tex	31409.
	Buffalo Gap	....do	Tex	31498, 509, 551, 591, 784.
12	Coleman	Coleman	Tex	31509, 530, 581.
	Mt. Mora	Taylor	Tex	31591.
12	Oak Vale (est. Feb. 25, '78)	Coleman	Tex	
	Fort Chadborn	Runnels	Tex	31591.
20	Walthall (dis. Dec. 20, '80)	Taylor	Tex	
"	San Angela (est. Jan. 20, '81)	Tom Green	Tex	31591.
38	Fort Concho (site chg. Jan. 21, '80, site chg. Dec. 21, '80),	....do	Tex	31168, 554, 591,
	Camp Stockton	Presidio	Tex	
187	Fort Stockton (n. ch. Jan. 14, '79)	Pecas	Tex	31572, 704, 792.
75	Fort Davis	....do	Tex	31494, 39114, 764, 791.
	Fort Quitman	El Paso	Tex	
210	San Elizaria, (dis. July 1, 79)		Tex	
	Elizaria (re-est. May 17, '81)	....do		31009, 032,
10	Ysleta	....do	Tex	31032, See in.
14	El Paso	....do	Tex	39004, 31069.
50	Messilla	Dona Ana	N M	39103.
201	Deming	do	N. M	
59	Fort Cummings	Grant	N. M	
	Mimbers Hot Springs (est. Jan. 24, '78).	....do	N. M	
25	Hudsons Hot Spgs. (n. c., Jan. 28, '79).	....do	N. M	
22	Fort Bayard	....do	N. M	39107.
	Pimos Altos	....do	N. M	
	Silver City	Dona Ana	N. M	39107, 40114, 39, 126.
	Shakespear (est. Oct. 27, '79)		N. M	
	Fort Bowie			
110	Apachie Pass (n. ch. Jan. 22, '80).	Pima	Ariz	
	Moley Wilcon (est. Sep. 13, '80); (n. c. Oct. 19, '89).	....do	Ariz	40113.
15	Dos Cabezos (est. Apr. 7, '79)	....do	Ariz	
65	Tres Almos	....do	Ariz	
	Benson (est. July 26, '80)			
	Tully (est. June 21, '80)	....do		
45	Tucson	....do	Ariz	40110, 111, 119, 124.
	Desert (est. May 10, '80)			
66	Florence	Maricopa	Ariz	40107, 109, 115.
42	Maricopa Wells	Pinol	Ariz	
	Name and site changed to Maricopa, 7 miles south, May 7, '79).			
	Panton (est. July 2, '80)			40125.
35	Gila Bend (dis. May 26, '79, re-est Aug. 14, '80).	Maricopa	Ariz	
202	Sentinel (est. Jan. 30, '80)	....do	Ariz	
To 113	Yuma	Yuma	Ariz	46114, 279.

1560 miles and back seven times a week.

Weatherford, Eastland, Abilene: Leave Fort Worth daily at 6 a. m.		
Benson, Deming; thirteeen:	220½	Sched. Aug. 5, '78.
	248 hours.	From Aug. 15, '78.
	162½	Sch. ch. Dec. 13, '78.
Arrive at Yuma in 17 days	154½ hours.	Sch. ch. June 5, '80. Sch. ch. June 18, '80. Sch. ch. Oct. 2, '80.
Benson, Deming:	10.30 p. m.	Sch. ch. Jan. 1, '81.
	4	Sch. ch. Mar. 18, '81. Sch. ch. Apr. 18, '81.
Leave Yuma daily at 6 a. m.		Sch. (See page 143.)
Weatherford, Eastland, Abilene; thirteen:	220½	12 m.
	248 hours.	
	162½	
Arrive at Fort Worth in 17 days	154½ hours.	

Bond required with bid, $320,000; check, $16,000. This service covers routes on which pro rata of the present pay aggregates about $321,000 per annum.

203 R. C. Kerens	$309,000.00	Check	$16,000
S. S. Vaile	305,000.00	No check. No description of property.	
James C. Kimzey	247,800.09	Check	16,000
Geo. H. Giddings and Jos. C. McKebbin	239,000.00	do	16,000
John S. Carr	216,000.00	do	16,000
A. H. Brown	193,500.00	do	16,000
John Thornton Gilmer	178,933.00	do	16,000
D. T. Parker	173,420.00	do	16,000
John T. Chidester	134,000.00	do	16,000
	165,000.00		
Accepted Mar. 20, 1878.	299,000.00		
	61,435.49		
	237,564.51		
Order 2030. Page 116.	26,419.36		
	211,145.15		
	55,774.19		
	155,370.96		
Camden, Ouachita Co., Ark.	7,548.39		
	147,822.57		
	13,629.03		
Care Logan H. Roots, Little Rock, Ark.	134,193.54		
	10,483.87		
	123,709.67		
After time.	5,032.26		
	118,677.41		
	98,967.74		
	19,709.67*		
George B. Burke. 1878, May 29. No. 3950. Change contractor's post-office address to "Care Logan H. Roots, Little Rock, Ark."	244,000.00	do	16,000

*Recd Feb. 4, '78.

204 1878, July 2. No. 4888.—Allow the postmaster at Stephensville, Tex., thirty (30) minutes for assorting the mail going each way, when such extension of time is necessary, and for the delay thus involved, allow the contractor a corresponding extension of running time.

1878, Aug. 5. 6391.—Expedite service so as to require it to be performed by a schedule of departures and arrivals, not to exceed thirteen (13) days running time, each way, from Aug. 15, 1878, and allow contractor one hundred and sixty-five thousand dollars ($165,000) additional pay per annum, such additional compensation bearing a less proportion to the additional stock and carriers necessarily employed than the compen-

sation, under the original contract, bears to the stock and carriers necessarily employed in its execution, but being in accordance with contractor's proposition.

1878, Sept. 5. No. 7345.—From Oct. 1, 1878, change service so as to embrace supply of the offices of Haydens Ferry and Phœnix, Maricopa Co. Ariz., between Florence and Maricopa Wells, change of distance and pay to be hereafter determined.

1878, Sep. 10. No. 7572.—Rescind order of Sep. 5, 1878 (No. 7345), embracing Phœnix and Haydens Ferry on this route.

1878, Dec. 10. No. 10283.—Permit contractor to sub-let on this route.

1880, June 8. No. 6190.—Change service so as to begin at Weatherford, Parker Co., Texas (and omit Fort Worth), from June 15,
205 1880, without change of distance or pay, change schedule accordingly.

1880, Aug. 31. 9978.—From Sep. 20, 1880, curtail service to end at Benson, Arizona, the decrease of distance and pay to be determined hereafter.

1880, Oct. 1. No. 11386.—Modify order of August 31, 1880 (No. 9978), curtailing service to end at Benson so as to state decrease of distance as being 293 miles and deduct sixty-one thousand four hundred and thirty-five and $\frac{49}{100}$ dollars ($61,435.49) from the annual pay of contractor, being pro rata, and allow contractor one month's extra pay on such deduction.

1880, Dec. 15. No. 13614.—From Jan. 1, 1881, change service so as to begin at Eastland, Eastland Co., Texas, and embrace Caddo Peak, Callahan County, Texas, (between Eastland and Coleman) omitting Weatherford, Bear Creek, Thorps Springs, Granbury, Paluxy, Rock Falls, Stephensville, Dublin, Procter, Comanche, Blanket, Brownwood, Thrifty, and Camp Colorado from the route, decreasing distance one hundred and twenty-six (126) miles and deduct twenty-six thousand four hundred and nineteen and $\frac{36}{100}$ dollars ($26,419.36) from the annual pay of contractor, being pro rata. Allow contractor one month's pay on the amount deducted.

1881, Mar. 11. No. 2287.—Curtail service to end at Deming, New Mexico (junction of Southern Pacific and A., T., and S. F. Railroads,) from March 18, 1881, the decrease of distance and pay to be hereafter determined.

206 1881, Mar. 16. No. 2442.—Modify order of March 11, 1881, (No. 22871 curtailing service to end at Deming, New Mex. (65 miles west of Mesilla) so as to state the decrease of distance as being 266 miles and to deduct fifty-five thousand seven hundred and seventy-four and 19-100 dollars ($55,774.19) from the annual pay of contractor, being pro rata. Allow contractor one month's extra pay on such deduction.

1881, April 5. No. 3335.—From April 18, 1881, change ervice sos as to begin at Abilene, Taylor Co., Texas, and embrace Buffalo Gap, Mount Mora, Fort Chadburn, and San Angela (between Abeline and Fort Concho), omitting Eastland, and Caddo Peak, Coleman, Oak Vale, and Walthall from the route, decreasing distance thirty-six miles, and deduct seven thousand five hundred and and forty-eight and 39-100 dollars ($7,548.39) from the annual pay of contractor, being pro rata. Allow contractor one month's extra pay on the amount deducted.

Leave Abilene, daily, at 8. [10] a. m.
El Paso, Fort Concho, next day (123¼, 129) by 6.30 a. m.
Arrive at Messilla, Elizario, 140 hours.
El Paso, Fort Concho, 1.15, 8 p. m.

Leave Messilla, Elizario, daily at 6 a. m.
Arrive at Abilene next day 140 hours (123¾, 129) by 10.30 a. m.
Sch. ch. July 1–'81.
" " Aug. 15– "
" " Sep. 13– "
" " Dec. 1– "
" " Jan. 7–'82.

207 1881, June 21. No. 7713.—Curtail service to end at Mesilla, New Mex. decreasing distance sixty-five miles, from July 1, 1881, and deduct thirteen thousand six hundred and twenty-nine and 3-100 dollars ($13,629.03) from the annual pay of the contractor, being pro rata. Allow contractor one month's extra pay on the amount deducted.

1881, July 30. No. 10662.—Curtail service to end at El Paso, Texas, decreasing distance fifty miles, from August 15, 1881, and deduct ten thousand four hundred and eighty-three and 87-100 dollars ($10,483.87) from the annual pay of contractor, being pro rata. Allow contractor one month's extra pay on the amount deducted.

1881, Nov. 14. No. 15755. Curtail service to end at Elizario, decreasing distance twenty-four miles, from Dec. 1, 1881, and deduct five thousand and thirty-two and 26-100 dollars ($5,032.26) from the annual pay of contractor, being pro rata. Allow contractor one month's extra pay on the amount deducted

1881, Dec. 14. No. 17166. Curtail service to end at Fort Concho, Texas, decreasing distance 472 miles, from Jan. 1, 1882, and deduct ninety-eight thousand nine hundred and sixty-seven and 74-100 dollars ($98,967.74) from the annual pay of contractor, being pro rata. Allow contractor one month's extra pay on the amount deducted.

Plaintiff then introduced a power of attorney referred to in the testimony of Joseph Cochran which is Exhibit E, and is in words and figures as follows, to-wit:

208 EXHIBIT E.

Certificate F.] OFFICE OF THE AUDITOR OF THE TREASURY FOR THE POST-OFFICE DEPARTMENT.

I, R. F. Crowell, Auditor of the Treasury for the Post-Office Department, do hereby certify the annexed to be a true and compared copy of the original now on file in this office, of power of attorney, dated May 28th, 1878, of John T. Chidester to Logan H. Roots on route number 31454.

In testimony whereof I have hereunto signed my name and caused to be affixed my seal of office, at the city of Washington, District of Columbia, this twenty-fifth day of September, in the year of our Lord one thousand eight hundred and eighty-four.

[SEAL.] R. F. CROWELL, *Auditor.*

[Pay division No. 628.]

Power of attorney to collect and receipt for contractors' pay.

Know all men by these presents, that I, John T. Chidester, of Camden, county of Ouachita, State of Arkansas, have made, constituted, and appointed, and by these presents do make, constitute, and appoint Logan H. Roots, of Little Rock, county of Pulaski, State of Arkansas, my true and lawful attorney in fact for me and in my name, place, and stead, and in

his own name in my place and stead to collect, receive, receipt for,
209 and to sign all vouchers, and full discharge give to the Auditor of the Treasury for the Post-Office Department for any or all sums of money that are now or may hereafter become due to me for the transportation of the United States mails under my contract with the Postmaster-General on the following described route:

No. 31454, from Fort Worth to Yuma, Arizona, in the State of Texas, from the first day of July, 1878, to the 30th of June, 1882, to sign my name to any post-office order, acknowledgekent, warrant, draft, or evidence of indebtedness, or voucher that may be necessary with respect to such or any service done under said contract or relating thereto. Giving and granting to my said attorney fudl power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully to all intents and purposes as I might or could do if personally present at the doing thereof, hereby rectifying and confirming all that my said attorney may or shall lawfully do or cause to be done by virtue thereof.

This power of attorney is subject to apy and all liabilities arising under my contracts with the Post-Office Department and is given only for the purpose *only for the purpose* of making collections of my pay on the route herein named, and may be revoked by me at any time subject to the regulations of the office of the Auditor of the Treasury for the Post-Office Department.

In witness whereof I have hereunto set my hand and seal this 28th day of May, *8*ighteen hundrd and seventy-eight.

(Signed) J. T. CHIDESTER. [SEAL.]

Signed and sealed in presence of
H. A. STODDARD.
W. P. DAVIDSON.

STATE OF ARKANSAS,
County of Pulaski:

210 Be it known that on this 28th day of May, in the year eighteen hundred and seventy-eight, before me, the undersigned, a notary public in and for said county and State, personally appeared John T. Chidester, to me well known to *pe* the identical person who executed the foregoing power of attorney, and the same having been first read over to him and the contents thereof explained, acknowledged the same to be his free act and deed.

In testimony whereof I have hereunto set my hand and affixed my seal of office the day and year last above written.

[SEAL.] (Signed) J. G. BOTSFORD,
Notary Public.

[Extract from regulations governing powers of attorney.]

Powers of attorney must be executed in the presence of two subscribing witnesses and acknowledged before an officer (having an official seal) authorized to take acknowledgements.

If acknowledged before a justice of the peace his official character and signature must be certified to by the clerk *op* a court of record of the county in which the justice of the peace resides, or by other officer (having

an official seal) empowered by law so to certify. An attorney in fact will not be allowed to substitute another in his place. When it is desired to substitute one attorney in fact for another it must be done by a new power of attorney from the contractor a.

When two or more persons are contractors conjointly on any route or routes, the power of attorney must be signed and acknowledged by each contractor, and this form changed accordingly.

When contractors wish to give power of attorney on routes on more than one State, a separate instrument should be given for each
211 State. When contractors desire to revoke powers of attorney it must be don' by an instrument in writing executed in the same manner as the power of attorney.

All transfers or assignments of contracts or any interest therein are prohibited. See sec. 3737 and 3963 United States Rev. Statutes.

* * * * * * *

G. F. STONE, a witness on the part of the plaintiff, being sworn, testified as follows:

Examined by J. W. HOUSE, U. S. district attorney:

Question. Where do you reside?

Answer. In Washington, D. C.

Q. Do you hold any position there? If so, please state it.

A. I am corresponding clerk in the office of the Second Assistant Postmaster-General.

Q. Did you make any calculation for the Department showing the number of men and animals that the Department presumed was the actual increase upon this route—that formed the basis of this suit?

A. I did not make the calculation showing the number of animals and carriers, I made the calculation showing the amount of dollars and cents which should have been allowed on the basis of the stock and carriesr which the Department believed to be actually used in the performing of the service.

Q. Have you got that statement?

A. Yes, sir.

Q (By Judge MCCLURE). Was the statement that you made forwarded through your Department or by any process to the auditing department of the Post-Office Department?

212 A. No, sir.

Q. It was not a matter of account that was brought to the attention of the auditing office or Auditor of the Treasury Department, in any respect?

A. No, sir; the statement to which you refer to was not.

Q. It was not forwarded to the Auditor's office?

A. No, sir.

Q. It has never been there?

A. No, sir.

Q. To whom was it forwarded?

A. To the Department of Justice.

Q. Then it never entered into the accounts of the Treasury Department in any manner?

A. I can say nothing further upon that subject.

Q. Was it forwarded to the Auditor of the Post-office Department at all?

A. No, sir.

Q. They have never seen that statement?

A. No, sir.

(Introduction of statement objected to. Objection sustained. Exception taken.)

Q. Can you state from the certified account the amount of fines and reductions?

(Objected to. Objection sustained. Exception taken.)

* * * * * * *

Plaintiff then offered in evidence the estimate account referred to in testimony of G. [illegible] Stone, which is Exhibit H, and is in words and figures as follows, to-wit:

213 OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT.

I, R. F. Crowell, Auditor of the Treasury for the Post-office Department, do hereby certify the annexed to be a true and correct statement from the records of this office to the account of J. T. Chidester, contractor for the transportation of the mails on route No. 31454 from July 1st, 1878, to July 1st, 1882.

In testimony whereof, I have hereunto signed my name and caused to be affixed my seal of office at the city of Washington, District of Columbia, this 20th day of September, in the year of our Lord one thousand eight hundred and eighty-four.

[SEAL.] R. F. CROWELL, *Auditor.*

214 EXHIBIT H.

Route No. 31454.—Fort Worth, Texas, to Yuma, Arizona. Contract term July, 1, 1878, to June 30, 1882. Contractor, John T. Chidester.

Cost of service was as follows:						
From July 1, 1878, to Aug. 14, 1878,	a $134,000.00	per A				$16,385.00
From Aug 15, 1878, to Sept. 19, 1880,	a 299,000.00	p. a				627,250.00
" Sept. 10, 1880, to Dec. 31, 1880,	" 237,564.00	"				66,492.23
" Jan. 1, 1881, to Mar. 17, 1881,	" 211,145.15	"				44,575.08
" Mar. 18, 1881, to Apl. 17, 1881,	" 155,370.96	"				13,298.54
" Apl. 18, 1881, to June 30, 1881,	" 147,822.57	"				30,051.84
" July 1, 1881, to Aug. 14, 1881,	" 134,193.54	"				16,409.53
" Aug. 15, 1881, to Nov. 30, 1881,	" 123,709.67	"				36,306.09
" Dec. 1, 1881, to Dec. 31, 1881,	" 118,677.41	"				9,997.28
" Jan. 1, 1882, to June 30, 1882,	" 19,709.67	"				9,854.83
Additional pay on service dispensed with as follows:						
By order of Oct. 1, 1880, 1 mos. extra pay	a $61,435.49	p. a				$5,119.62
" " " Dec. 5, 1880, 1 " " " "	26,419.35	"				2,201.61
" " " Mar. 16, 1881, 1 " " " "	55,774.19	"				4,647.85
" " " Apl. 5, 1881, 1 " " " "	7,548.39	"				629.03
" " " Jan. 21, 1881, 1 " " " "	13,629.03	"				1,135.75
" " " July 30, 1881, 1 " " " "	10,483.87	"				873.65
" " " Nov. 14, 1881, 1 " " " "	5,032.26	"				419.35
" " " Dec. 14, 1881, 1 " " " "	98,967.74	"				8,247.31
						$893,895.46
The Auditor settling by quarters made this amount greater by						.06
Total allowance for service						$893,895.52

215 Deduction and fines were as follows:

Quarter ending—			
December	31, 1878,	deductions	$1,433.53
"	" "	fine	20.00
March	31, 1879,	"	100.00
June	30, 1879,	"	375.00
Sept.	30, 1879,	deduction	565.46
Dec.	31, 1879,	"	645.66
Mar.	31, 1880,	"	2,154.54
Sept.	30, 1880,	"	1,458.15
Dec.	31, 1880,	"	1,815.52
"	" "	fine	100.00
June	30, 1881,	deduction	1,761.30
Sep.	30, 1881,	"	3,195.20
Dec.	31, 1881,	"	257.15
June	30, 1882,	"	48.35
Total deductions and fines			$13,939.86

Remissions were as follows:

Quarter ending—			
December	31, 1878	$1,433.53	
June	30, 1879	375.00	
Sep.	30, 1879	565.46	
Dec.	31, 1879	631.30	
Mar.	31, 1880	1,949.75	
"	" "	204.79	
Sep.	30, 1880	1,458.15	
Total remissions			6,617.98
Total reduction not remitted			7,311.88

216 Pay on the basis of stock and carriers employed would have been as follows:

From July	1, 1878,	to Aug.	14, 1878,	a $134,000.00	$16,385.87
" Aug.	15, 1878,	" Sept.	19, 1880,	" 238,919.00	501,210.51
" Sep.	20, 1880,	" Dec.	31, 1880,	" 189,828.35	53,131.30
" Jan.	1, 1881,	" Mar.	17, 1881,	" 168,717.70	35,618.18
" Mar.	18, 1881,	" Ap'l	17, 1881,	" 124,150.76	10,626.33
" Ap'l	18, 1881,	" June	30, 1881,	" 118,119.14	24,013.23
" July	1, 1881,	" Aug.	14, 1881,	" 107,228.72	13,112.21
" Aug.	15, 1881,	" Nov.	30, 1881,	" 98,851.48	29,010.76
" Dec.	1, 1881,	" Dec.	31, 1881,	" 94,830.41	7,988.43
" Jan.	1, 1882,	" June	30, 1882,	" 14,749.22	7,874.61

Additional pay on service dispensed with as follows:

By order of—						
October	1, 1880,	1 month's	extra pay	a $49,090.65	p. a	4,090.89
December	15, 1880,	1 "	" "	" 21,110.65	"	1,759.22
March	16, 1881,	1 "	" "	" 44,566.94	"	3,713.91
April	5, 1881,	1 "	" "	" 6,031.62	"	502.63
June	21, 1881,	1 "	" "	" 10,890.42	"	907.53
July	30, 1881,	1 "	" "	" 8,377.24	"	698.10
Nov.	14, 1881,	1 "	" "	" 4,021.07	"	335.09
Dec.	14, 1881,	1 "	" "	" 79,081.19	"	6,590.10
Total allowance for service on new basis						$717,568.80

217 Deductions and fines on the new basis would have been:

Quarter ending—			
Dec.	31, 1878,	deduction	$1,145.48
"	" "	fine	20.00
Mar.	31, 1879,	"	100.00
June	30, 1879,	"	375.00
Sep.	30, 1879,	deduction	446.34
Dec.	31, 1879,	"	493.30
Mar.	31, 1880,	"	1,305.91
Sep.	30, 1880,	"	1,040.07
Dec.	31, 1880,	"	1,502.56
"	" "	fine	100.00

Quarter ending—Continued.		
June 30, 1881,	deduction	$824.22
Sep. 30, 1881,	"	2,251.63
Dec. 31, 1881,	"	163.54
June 30, 1882,	"	31.32
Total deductions and fines on new basis		$9,799.31

Remissions on new basis would have been:

Quarter ended—			
December	31, 1878	$1,145.48	
June	30, 1879	375.00	
Sep.	30, 1879	446.34	
Dec.	31, 1879	480.84	
March	31, 1880	1,305.91	
Sep.	30, 1880	1,040.07	
Total remissions on new basis			4,793.64
Total deduction less remission on new basis			5,000.67

218 Recapitulations of actual settlements:

Total allowances for services	$893,895.52
Total deduction not remitted	7,311.88
Amount actually paid for services	886,583.64

Recapitulation on revised basis:

Total allowance for service on new basis	717,568.90
Total deduction less remission " "	5,005.67
Amount which should have been paid	712,563.23

FINAL RECAPITULATION.

Amount actually paid for services	$886,583.64
Amount which should have been paid	712,563.23
Amount to be recouped	174,020.41

219 STATEMENT OF ACCOUNT.

J. T. Chidester, contractor, in account with the United States.

Route 31454.

	Dr.
To warrant 10491, St. L., Oct. 3, '78	$54,573.37
" fine and deductions	1,453.53
" collections 3rd qr., 1878	1,609.30
" warrant 13723, 13724, and 13725, St. L	55,000.00
" " 13726, N. Y., Jan. 4, '79	16,687.17
" " 2540, N. Y., April 3, '79	25,000.00
" " 2541, St. L. " "	48,342.38
" fine 1st qr., 1879	100.00
" collections 4th qr., 1878	1,307.62
" " 1st " 1879	2,132.61
" fine	375.00
" warrant 5796, Washington, July 9, '79	21,000.00
" " 5797, and 5798, N. Y., " "	51,242.39
" " 9087 " 9088, St. L., Oct. 9, '79	40,000.00
" " 9089, N. Y., " "	33,461.29
" deductions 3rd qr., 1879	565.46
To collections 2nd qr., 1879	2,156.78
220 " collections 3rd. qr., 1879	2,127.55
" deductions 4th " "	645.66
To warrant 12566, N. Y., Jan. 10, '80	71,976.79
" " 3194, " Apl. 9, '80	35,000.00
" " 3195, St. L., "	34,984.28

To collections 4th qr., 1879	$2,611.18
" deductions 1st " 1880	2,154.54
" collections " " "	8,871.90
" warrants 6695 and 6696, N. Y., July 7, '80	65,878.10
" " 10542 and 10543, St. L., Sep. 14, '80	1,571.76
" warrant 10694, St. L., October 9, '80	50,000.00
" " 10695, N. Y., " " "	25,485.71
" collections 2nd qr., 1880	3,039.12
" deductions 3rd " "	1,458.15
" " 4th " "	1,915.52
" draft 20477, Little Rock, Nov. 12, '80	204.79
" warrant 1102, N. Y., Jan. 10, '81	57,475.61
" draft 1440, Little Rock, Jan. 14, '81	1,458.15
To warrant 4634 N. Y., April 11, '81	57,466.76
221 " deductions 2nd qr., 1881	1,761.30
" warrant 259, N. Y., July 18, '81	36,175.91
" " 4664, St. L., Oct. 22, '81	31,023.62
" deductions 3rd qr., 1881	3,195.20
" " 4th " "	257.15
" warrant 329, N. Y., Jan. 14, '82	36,665.70
" " 1162, N. Y., Apl. 28, '82	13,174.73
" " 1288, St. L., July 2, '82	4,879.07
" deductions 2nd qr., 1882	48.35
	900,513.50

All of the above payments were made to Logan H. Roots, attorney.

222 Route 31454.

	Cr.
By transportation 3rd qr., 1878	$54,573.37
" " 4th " "	74,750.00
" " 1st " 1879	74,750.00
" " 2nd " "	74,750.00
" " 3rd " "	74,750.00
" remission of deduction of 4th qr., '78	1,433.53
" transportation 4th qr., 1879	74,750.00
" " 1st " 1880	74,750.00
" " 2nd " 1880	74,750.00
" " 3rd " 1880	72,913.61
" one month's extry pay on No. 15358–87 decrease per qr	5,119.62
" remission of deduction of 1st qr., 1880	1,949.75
" " " " " " " "	204.79
" transportation 4th qr., 1880	59,391.13
" remission of reduction of 3rd qr., 1880	1,458.15
" transportation 1st qr., 1881	50,617.30
" one mos. extra pay on No. 20,548.39 decrease per qr	6,849.46
" remission of reduction of 2nd qr., 1879	375.00
" " " " " 3rd " "	565.46
By remission of reduction of 4th qr., 1879	631.30
223 " transportation 2nd qr., 1881	37,308.18
" one mos. ex. pay on No. 1887.10 decrease per qr.	629.03
By transportation 3rd qr., 1881	32,209.41
" 1 mos. ex. pay on No. 6028.23 decrease per qr	2,009.41
" transportation 4 qr., 1881	30,503.50
" 1 mos. ex. pay on No. 1358.06 decrease per qr	419.35
" transportation 1st qr., 1882	4,927.42
" 1 mos. ex. pay on No. 24741.93 decrease per qr	8,247.31
" transportation 2nd qr., 1882	4,927.42
	900,513.50

Hon. H. D. LYMAN,
Sec. Asst. P. M. Genl., Washington, D. C.

OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT,
Washington, D. C., Oct. 2nd, 1884.

R. F. CROWELL,
Auditor.

* * * * * * * *

To the introduction of which the defendant objected and the court sustained the objection, to which ruling of the court the plaintiff at the time excepted.

The plaintiff then introduced T. D. Kelleher.

224 T. D. KELLEHER, a witness on the part of the plaintiff, being sworn, testified as follows:

Examined by J. W. HOUSE, U. S. district attorney.

Question. Where do you reside?

Answer. Well, my legal residence is Albany, New York; in the city of Washington, D. C.

Q. What position there do you occupy?

A. I am disbursing clerk in the auditor's office, in the Treasury Department.

Q. Have you the original warrants from your Department showing the amount of payments to Logan H. Roots as attorney for John T. Chidester?

A. Yes, sir.

(The U. S. district attorney offered in evidence a certified statement from the U. S. Treasury Department showing the payments made to John T. Chidester on account of route No. 31454.

The form of certificate was objected to by attorney for defendants. Objection overruled. Exceptions taken.)

Q. Mr. Kelleher have you a copy with you of the original warrants?

A. Yes, sir.

The original warrants were exhibited to the jury, and copys thereof then put in evidence. [See Exhibit F.]

225 EXHIBIT F.

OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT.

I, D. McConville, auditor of the Treasury for the Post-Office Department, do hereby certify the annexed to be true and coreect copies of original Post-Office warrants now on file in this office, as per the list hereto attached, pertaining to the accounts of J. T. Chidester in the office of the sixth auditor.

In testimony whereof I have hereunto set my hane and caused to be affixed my seal of office, at the city of Washington, District of Columbia, this 22nd day of May, in the year of our Lord eight' hundred and eighty-six.

[SEAL.] D. MCCONVILLE,
Auditor of the Treasury for the Post-Office Department.

OFFICE OF THE AUDITOR OF THE TREASURY,
FOR THE POST-OFFICE DEPARTMENT,
Washington, D. C., May 22nd, 1886.

List of copies of Post-Office Department warrants in case of L. H. Roots, attorney for J. T. Chidester, furnished to Second Assistant Postmaster-General this date.

Number.	Date.	Favor of.	Amount.
10492	Oct. 3, 1878	L. H. Roots, att'y for J. T. Chidester	54, 573. 37
13783	Jan. 4, 1879	....do	20, 000. 00
13724	....do	....do	20, 000. 00
13725	... do	....do	15, 000. 00
13726	....do	....do	16, 687. 17
[226]			
2540	April 3, 1879	....do	25, 000. 00
2541	April 3, 1879	....do	48, 342. 38
5796	July 9, 1879	.. do	21, 000. 00
5797	July 9, 1879	....do	30, 000. 00
5798	July 9, 1879	....do	21, 242. 39
9087	Oct. 9, 1879	....do	30, 000. 00
9088	Oct. 9, 1879	... do	10, 000. 00
9089	Oct 9, 1879	.. do	33, 461. 29
12566	Jan. 10, 1880	.. do	71, 976. 79
3194	April 9, 1880	....do	35, 000. 00
3195	April 9, 1880	....do	34, 984. 28
6695	July 9, 1880	....do	45, 000. 00
6696	July 9, 1880	....do	20, 878. 10
10542	Sep. 14, 1880	... do	375. 00
10543	Sep. 14, 1880	....do	1, 196. 76
10694	Oct. 9, 1880	.. do	50, 000. 00
10695	Oct. 9, 1880	....do	25, 485. 71
1102	Jan. 10, 1881	.. do	57, 475. 66
4634	April 11, 1881	....do	57, 476. 76
259	July 18, 1881	.. do	36, 175 91
4664	Oct. 22, 1881	....do	31, 023. 62
329	Jan. 14, 1882	....do	30, 665. 70
1162	April 28, 1882	....do	13, 174. 73
1288	July 26, 1882	.. do	4, 879. 07

227 B. No. 10492.] POST-OFFICE DEPARTMENT. [$54,573.37.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report N. 23424.)

OCT. 3D, 1878.

Pay to L. H. Roots, att'y J. T. Chidester, or order, fifty-four thousand five hundred seventy-three 37-100 dollars.

The assistant treasurer of the U. S. at St. Louis will pay this warrant.

T. J. BRADY,
Acting Postmaster-General.
F. B. LILLY,
Acting Auditor P. O. Department.

A. W. WYMAN,
Ass't Treasurer of the United States.

Traosportation of the mails.

Residence: Little Rock, Ark.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:) Pay to the order Merchants' National Bank of Little Rock, Ark.

L. H. ROOTS,
Att'y, J. T. Chidester.

Pay to the order of the Third National Bank of St. Louis for the credit of the Merchants' National Bank of Little Rock.

LOGAN H. ROOTS, *President.*
H. A. STODDARD, *Cash.*

(On the margin:) United States Post-Office Department of America. (Across the face:) J. W. B. 31455. U. S. Treasury. Paid Oct. 7, 1878. St. Louis, Mo.

228 B. (*a*). No. 13723.] POST-OFFICE DEPARTMENT. [$20,000.00.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 89 Pt.)

JANUARY 4TH, 1879.

Pay to Logan H. Roots, att'y of J. T. Chidester, or order, twenty thousand dollars.

The assistant treasurer of the United States at St. Louis will pay this warrant.

D. M. KEY,
Postmaster-General.
F. B. LILLY,
Acting Auditor P. O. Dep't.

A. U. WYMAN,
Assistant Treas. of the United States.
(1, 4, '79.)

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:) Pay to order Merchants' National Bank of Little Rock, Ark.

LOGAN H. ROOTS,
Att'y of J. T. Chidester.

Pay to order of J. N. McClume, Eastern State Saving, for the credit of the Merchants' National Bank of Little Rock, Ark's.

LOGAN H. ROOTS, *President.*
H. A. STODDARD, *Cash.*

(On the margin:) United States Post-Office Department of America. (Across the face:) J. W. W. 31454. U. S. Treasury. Paid Jan. 7, 1879. St. Louis, Mo.

229 B. No. 13724.] POST-OFFICE DEPARTMENT. [$20,000.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 89 Pt.)

JANUARY 4TH, 1879.

Pay to Logan H. Roots, att'y of J. T. Chidester, or order, twenty thousand dollars.

The assistand treasurer of the United States at St. Louis will pay this warrant.

D. M. KEY,
Postmaster-Gen'l.
J. M. MCGREW,
Auditor, P. O. Department.

A. U. WYMAN,
Assistant Treas. of the United States.
(1, 4, '79.)

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:) Pay to order Merchants' National Bank of Little Rock.
LOGAN H. ROOTS,
Att'y of J. T. Chidester.

Pay to order of F. W. Beiberger, cashier 4th Nat'l B'k of St. Louis for the credit of the Merchants' National Bank of Little Rock, Ark.
LOGAN H. ROOTS, *President.*
F. W. BEIGERER, *Cash.*

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. U. S. Treasury. Paid Jan. 8th, 1879. St. Louis, Mo.

230 B. No. 13725.] POST-OFFICE DEPARTMENT. [$15,000.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 89.)

JANUARY 4TH, 1879.

Pay to Logan H. Roots, att'y of J. T. Chidester, or order, fifteen thousand dollars.

The assistand treasurer of the United States at St. Louis will pay this warrant.

D. M. KEY,
Postmaster-Gen'l.
J. M. MCGREW,
Auditor, P. O. Department.

A. U. WYMAN,
Assistant Treas. of the United States.
(1, 4, '79.) (W. C. K.)

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom draw*y* will refuse payment.

(Endorsed:) Pay to order Merchants' National Bank of Little Rock, Ark.

LOGAN H. ROOTS,
Att'y of J. T. Chidester.

Pay to order of the Third National Bank of St. Louis for the credit of the Merchants' National Bank of Little Rock.

LOGAN H. ROOTS, *President.*
H. A. STODDARD, *Cash.*

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. U. S. Treasury. Paid Jan. 7, 1879. St. Louis, Mo.

231 B. No. 13726.] POST-OFFICE DEPARTMENT. [$16,687.17.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 87 Pt.)

JANUARY 4TH, 1879.

Pay to Logan H. Roots, att'y of J. T. Chidester, or order, sixteen thousand six hundred and eighty seven $\frac{17}{100}$ dollars.

The assistand treasurer of the United States at St. Louis will pay this warrant.

D. M. KEY,
Postmaster-Gen'l.
J. M. MCGREW,
Auditor, P. O. Dep't.

A. U. WYMAN,
Assistant Treas. of the United States.
(1, 4, '79.)

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom draw*y* will refuse payment.

(Endorsed:) Pay to order Merchants' National Bank of Little Rock, Ark.

LOGAN H. ROOTS,
Att'y of J. T. Chidester.

Pay to order of the Third National Bank of New York for the credit of the Merchants' National Bank of Little Rock.

LOGAN H. ROOTS, *President.*
O. BLOW, *Cash.*

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. Paid Jan. 18, 1879. New York.

232 No. 2540.] POST-OFFICE DEPARTMENT. [$25,000.00.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 8809 Pt.)

APRIL 3RD, 1879.

Pay to Logan H. Roots, attorney of J. T. Chidester, or order, twenty-five thousand dollars.

The assistant treasurer of the U. S. at New York will pay this warrant.

D. M. KEY,
Postmaster-Gen'l.
J. M. MCGREW,
Auditor P. O. Department.

JAS. GILFILLAN,
Treasurer of the United States.

W. C. H., countersigned.

Transportation of the mails.

Residence: Little Rock, Ark.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:)

LOGAN H. ROOTS,
Attorney of J. T. Chidester.

Pay to the order of C. N. Jordan, cashier, for collections use Merchants' National Bank.

LUCIEN W. COY.

[Illegible.]

(On the margin:) United States Post-Office Department of America.

(Across the face:) J. W. B. 31454. Paid April 10, 1879. New York.

233 No. 2541.] POST-OFFICE DEPARTMENT. [$48,342.38.

To the TREASURER OF THE UNTIED STATES:

Warrant. (On auditero report No. 8809 Pt.)

APRIL 3RD, 1879.

Pay to Logan H. Roots, attorney of J. T. Chidester, or order, forty-eight thousand three hundred and forty-two dollars 38-100 dollars.

D. M. KEY,
Postmaster-Gen'l.

The assistant treasurer of the U. S. at St. Louis will pay this warrant.

JAMES GILFILLAN,
Treasurer of the United States.

Countersigned.

Q. M. MCGREW,
Auditor P. O. Department.

Residence: Little Rock, Ark.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

LOGAN H. ROOTS,
Attorney of J. T. Chidester.

Pay to the order of F. W. Beiberger, cashier, for collection for account of Merchants' National Bank.

JNO. C. H. D. BLACK, *Pres'd't.*
LUCIEN W. COY, *Cashier.*

(On the margin:) United States Post-Office Department of America.
(Across the face :) J. W. B. 31484. U. S. Treasury. Paid April 8, 1879. St. Louis, Mo.

234 No. 5796.] POST-OFFICE DEPARTMENT. [$21,000.00

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 17950 Pt.)

JAN. 9TH, 1879.

Pay to Logan H. Roots, attorney of J. T. Chidester, or order, twenty-one thousand dollars.

The assistant treasurer of the U. S. at Washington will pay this warrant.

THOS. J. BRADY,
Acting Postmaster-General.
J. M. MCGREW,
Auditor P. O. Dept.

A. U. WYMAN,
Assistant Treasurer of the United States.

Countersigned.

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

[Endorsed:]

LOGAN H. ROOTS,
Attorney of J. T. Chidester.

Outstanding bnc C-D. 1818	$9,000.00
Trans. of fds ref'g centless D. 812	5,000.00
" " " " " "	5,000.96
N. Y. cchck 127,145	791.04
Cash	1,200.00
	$21,000,00

(On the margin:) United States Post-Office Department of America.
(Across the face:) J.W.B. 31454. Paid July 10, 1879. New York office.

235 No. 5797.] POST-OFFICE DEPARTMENT. [$30,000.00.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 17950 pt.)

JULY 9TH, 1879.

Pay to Logan H. Roots, attorney of J. T. Chidester, or order, thirty thousand dollars.

The assis'ant treasurer of the U. S. at New York will pay this warrant.

THOS. J. BRADY,
Acting Postmaster-Gineral.
J. W. MCGREW,
Auditor P. O. Department.

A. U. WYMAN,
Ass't Treasurer of the United States.

Countersigned,

W. C. K.

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:) Pay Merchants' National Bank, or order.

LOGAN H. ROOTS,
Attorney of J. T. Chidester.

Pay to the order of the Hanover National Bank of New York for the credit of the Merchants' National Bank of Little Rock, Arkansas.

LOGAN H. ROOTS, *Presdt.*

The HANOVER NATIONAL BANK OF THE CITY OF NEW YORK,
by J. CASTRON STEINMAN, *Att'y.*

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. Paid July 10, 1879. New York. 30. July 10, 1879. X.

236 No. 5798.] POST-OFFICE DEPARTMENT. [$21,242.39.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 17950 pt.)

JULY 9, 1879.

Pay to Logan H. Roots, attorney for J. T. Chidester, or order, twenty-one thousand two hundred forty-two 39–100 dollars.

The assistant treasurer of the U. S. at New York will pay this warrant.

THOS. J. BRADY,
Acting Postmaster-General.
J. M. MCGREW,
Auditor P. O. Department.

1, 7, 9

A. U. WYMAN,
Asst. Treasurer of the United States.

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:) Pay Merchants' National Bank, or order.

LOGAN H. ROOTS,
Att'y of J. T. Chidester.

Pay to Third National Bank of New York for the credit of the Merchants' National Bank of Little Rock, Arkansas.

LOGAN H. ROOTS, *Presid't.*

[Sig. unintelligible.]
(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454.

237 No. 9087.] POST-OFFICE DEPARTMENT. [$30,000.00.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 26729 pt.)

OCT. 9, 1879.

Pay to Logan H. Roots, attorney for J. T. Chidester, or order, thirty thousand dollars.

The assistant treasurer of the U. S. at St. Louis will pay this warrant.

D. M. KEY,
Postmaster-General.
F. B. LILLY,
Acting Auditor P. O. Department.

A. U. WYMAN,
Ass't Treasurer of the United States.

1, 7, 9.

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:)

LOGAN H. ROOTS,
Att'y for J. T. Chidester.

Pay 4th National Bank of St. Louis for the credit of Logan H. Roots and the Merchants' National Bank of Little Rock, Arks.

F. W. BIEBERGER, *Cash.*

(On the margin:) United States Post-Office Dep't of America.
(Across the face:) J. W. B. 31454.

238 No. 9088.] POST-OFFICE DEPARTMENT. [$10,000.00.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 26729 pt.)

OCT. 9, 1879.

Pay to Logan H. Roots, attorney for J. T. Chidester, or order, thirty thousand dollars.

The assistant treasurer of the U. S. at St. Louis will pay this warrant.

D. M. KEY,
Postmaster-General.
F. B. LILLY,
Act. Auditor P. O. Department.

Countersigned:

A. U. WYMAN,
Ass't Treasurer of the United States.

1, 7, 9.

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:)

LOGAN H. ROOTS,
Att'y for J. T. Chidester.

Pay 4th National Bank of St. Louis for the credit Mer. Nat'l B'k of Little Rock, Ark.

LOGAN H. ROOTS, *Pres't.*
F. W. BEIBERGER, *Cash.*

(On margin:) United States Post Office Department of America.
(Across the face:) J. W. B. 31454. U. S. Treasury. Paid Oct. 11, 1879. St. Louis, Mo.

239 No. 9089.] POST-OFFICE DEPARTMENT. [$33,461.29.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 26729 Pt.)

OCT. 9, 1879.

Pay to Logan H. Roots, attorney for J. T. Chidester, or order, thirty-three thousand four hundred sixty-one $\frac{29}{100}$ dollars.

The assistant treasurer of the U. S. at New York will pay this warrant.

D. M. KEY,
Postmaster-General.
F. B. LILLY,
Acting Auditor P. O. Department.

A. U. WYMAN,
Ass't Treasurer of the United States.
(1, 7, '9.)

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:)

LOGAN H. ROOTS,
Att'y for J. T. Chidester.

Pay Third National Bank, New York, for credit Mer. Nat'l Bank of Little Rock, Ark.

LOGAN H. ROOTS, *Prest.*
W. A. BOOTH, *Pt.*

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. Paid Oct. 10, 1879. New York.

240 B. No. 12566.] POST-OFFICE DEPARTMENT. [$71,976.79.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 627.)

JAN. 10, 1880.

Pay to Logan H. Roots, att'y for J. T. Chidester, or order, seventy-one thousand nine hundred seventy-six $\frac{79}{100}$ dollars.

The assistand of the United States at New York will pay this warrant.

D. M. KEY,
Postmaster-Gen'l.
F. B. LILLY,
Act. Auditor P. O. Depart.

A. U. WYMAN,
Ass't Treasurer of the United States.
W. C. K. Countersigned.

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:) Pay to the order of the 3rd National Bank, New York, for the credit of Merchants' National Bank of Little Rock, Arkansas.

LOGAN H. ROOTS,
Att'y for J. T. Chidester.
LOGAN H. ROOTS,
Presdt. Mer. Nat'l B'k, &c.
C. N. JORDAN.

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. Paid Jan. 13, 1889. New York.

241 No. 3194.] POST-OFFICE DEPARTMENT. [$35,000.00

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 9498 Pt.)

APRIL 9, 1880.

Pay to Logan H. Roots, att'y for J. T. Chidester, or order, thirty-five thousand dollars.

The assistand of the United States at New York will pay this warrant.

D. M. KEY,
Postmaster-Gen'l.
J. M. MCGREW,
Auditor P. O. Depart.

A. U. WYMAN,
Ass't Treasurer of the United States.
W. C. K. Countersigned.

Transportation of the mails.

Residence: Little Rock.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:)

LOGAN H. ROOTS,
Att'y for J. T. Chidester.

Pay to the order of C. N. Jordan, cashier, for collection for account of Merchants' National Bank.

——— ———, *Cashier.*
WILLIAM B. WRIGHT, *V. President.*

[Unintelligible.]
(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. Paid April 15, 1880. New York.

242 No. 3195.] POST-OFFICE DEPARTMENT. [$34,984.28.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's warrant No. 9498.)

APRIL 7, 1880.

Pay to Logan H. Roots, att'y of J. T. Chidester, or order, thirty-four thousand nine hundred eighty-four $\frac{28}{100}$ dollars.

The assistant treasurer of the U. S. at St. Louis will pay this.

D. M. KEY,
Postmaster-Gen'l.
J. M. MCGREW,
Auditor P. O. Departm't.

A. U. WYMAN,
Ass't Treasurer of the United States.

Transportation of the mails.

Residence: Little Rock.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:)

LOGAN H. ROOTS,
Att'y for John T. Chidester.

Pay to the order of T. A. Stoddard, cashier, for collection for account of Mer. Nat'l Bank.

——— ———, *Cashier.*
WM. B. WRIGHT, *V. President.*
T. A. STODDARD, *Cash.*

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. U. S. Treasury. Paid April 13, 1880. St. Louis, Mo.

243 No. 6695.] POST-OFFICE DEPARTMENT. [$45,000.00.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 18260.)

JULY 7, 1880.

Pay to L. H. Roots, att'y of J. T. Chidester, or order, forty-five thousand dollars.

The assistand of the United States at New York will pay this warrant.

D. M. KEY,
Postmaster-Gen'l.
F. B. LILLY,
Acting Auditor P. O. Depart.

A. U. WYMAN,
Ass't Treasurer of the United States.

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:)

LOGAN H. ROOTS,
Att'y of J. T. Chidester.

Pay Nat'l Park Bank, N. Y., or order, for collection or for account National Metropolitan Bank, Washington, D. C.

GEO. H. B. WHITE, *Cash.*

The National Park Bank per J. A. W., att'y.

(On the margin.) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. W. C. K., countersigned. Paid July 8, 1889. New York.

244 No. 6696.] POST-OFFICE DEPARTMENT. [$20,878.10.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 18260, pt.)

JULY 7, 1880.

Pay to L. H. Roots, att'y of J. T. Chidester, twenty thousand eight hundred seventy-eight 10-100 dollars.

The assistant of the United States at New York will pay this warrant.

D. M. KEY,
Postmaster-Gen'l.

F. B. LILLY,
Acting Auditor P. O. Depart.

A. U. WYMAN,
Ass't Treasurer of the United States.

Transportation of the mails.

Residence: Present.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:)

L. H. ROOTS,
Att'y J. T. Chidester.

Pay to the order of the Third National Bank of New York for the credit of the Merchants' National Bank of Little Rock, Arkansas.

LOGAN H. ROOTS, *Pres'd't.*

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. W. C. K., countersigned. Paid July 8, 1880. New York.

[Unintelligible.]

245 No. 10542.] POST-OFFICE DEPARTMENT. [$375.00.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 26889.)

SEPT. 14, 1880.

Pay to L. H. Roots, att'y for J. T. Chidester, or order, three hundred and seventy-five dollars.

The assistant treasurer of the United States at St. Louis will pay this warrant.

HORACE MAYNARD,
Postmaster Gen'l.

J. M. MCGREW,
Auditor P. O. Dep't.

A. U. WYMAN,
Assistant Treas. of the United States.

C. H. B. Countersigned.

Transportation of the mails.

Residence: Little Rock, Ark.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:

L. H. ROOTS,
Att'y for J. T. Chidester.

Pay to the order of T. A. Stoddard, cashier, for collection for account, of Merchants' National Bank.

P. H. ROOTS, *Cashier.*
T. A. STODDARD, *Cash.*

(On the margin:) United States Post-Office Department of America. (Across the face:) J. W. B. 31454. C. H. B., countersigned. U. S. Treasury. Paid Sept. 20, 1880. St. Louis, Mo.

246 No. 10543.] POST-OFFICE DEPARTMENT. [$1,196.74]

To the TREASURER OF THE UNITED STATES:

Warrant. (On auditor's report No. 26890.)

SEPT. 14, 1880.

Pay to L. H. Roots, att'y for J. T. Chidester, or order, eleven hundred ninety-six $\frac{76}{100}$ dollars.

The assistant trrasurer of the U. S. at St. Louis will pay this warrant.

HORACE MAYNARD,
Postmaster Gen'l.
J. M. MCGREW,
Auditor P. O. Dep't.

A. U. WYMAN,
Assist. Treasurer of the United States.

C. H. B. Countersigned.

Transportation of the mails.

Residence: Littte Rock, Ark.

Endorsement must be legally and technically perfect, or the officer upon whom drawn will refuse payment.

(Endorsed:)

LOGAN H. ROOTS,
Att'y for J. T. Chidester.

Pay to the order of T. A. Stoddard, cashier, for collection, for account of Merchants' Natl. Bank.

P. K. ROOTS, *Cash.*
T. A. STODDARD, *Cash.*

(On the margin:) United States Post-Office Department of America. (Across the face:) J. W. B. 31454. U. S. Treasury. Paid Sept. 20, 1880. St. Louis, Mo.

247 No. 10694.] POST-OFFICE DEPARTMENT. [$50,000.00.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 27735.)

OCT. 9, 1880.

Pay to L. H. Roots, att'y for J. D. Chidester, or order, fifty thousand dollars.

The assistant treasurer of the U. S. at St. Louis will pay this warrant.

A. D. HAZEN,
Acting Postmaster-General.
F. B. LILLY,
Acting Auditor P. O. Department.

A. U. WYMAN,
Assistant Treasurer of the United States.

W. C. K. Countersigned.

Transportation of the mails.

Residence: Little Rock, Ark.

Endorsement must be legally and technically perfect or the officer upon whom drawn will refuse payment.

(Endorsed:)

LOGAN H. ROOTS,
Att'y for J. T. Chidester.

Pay order 3d Natl., St. L., for credit Mer. Natl. L. R.

LOGAN H. ROOTS, *Presdt.*
T. A. STODDARD, *Cash.*

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. U. S. Treasury. Paid Oct. 11, 1880. St. Louis, Mo.

248 No. 10695.] POST-OFFICE DEPARTMENT. [$25,485.71.

To the TREASURER OF THE UNITED STATES:

Warrant. On Auditor's report No. 27735 Pt.)

OCT. 9, 1880.

Pay to Logan H. Roots, att'y for J. T. Chidester, or order, twenty-five thousand four hundred eighty-five 71-100 dollars.

The assistant treasurer of the U. S. at New York will pay this warrant.

A. D. HAZEN,
Acting Postmaster-General.
F. B. LILLY,
Acting Auditor, P. O. Department.

A. U. WYMAN,
Assistant Treasurer of the United States.

W. C. K. Countersigned.

Transportation of the mails.

Residence: Little Rock, Ark.

Endorsement must be legally and technically perfect or the officer upon whom drawn will refuse payment.

[Endorsed:]

LOGAN H. ROOTS,
Att'y for J. T. Chidester.

Pay order 3rd Natl., St. Louis, for credit Merchants' Natl., Little Rock.
LOGAN H. ROOTS, *Presdt.*

Pay Richard King, cashier, or order, from collection account No. 49004, Third Natl. Bank, St. Louis.
T. A. STODDARD, *Cash.*

Received payment.
W. W. SHERMAN, *Cash.*

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B.. 31454. Paid Oct. 14, 1880. New York.

249 No. 1102.] POST-OFFICE DEPARTMENT. [$57,475.61.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 506.)

JAN. 10, 1881.

Pay to Logan H. Roots, att'y for J. T. Chidester, fifty-seven thousand four hundred seventy-five 61-100 dollars.

The assistant treasurer of the U. S. at New York will pay this warrant.
JAS. A. TYNER,
Acting Postmaster-General.
J. M. MCGREW.
Auditor, P. O. Department.

A. U. WYMAN,
Ass't Treasurer of the United States.

C. H. B. Countersigned.

Transportation of the mails.

Residence: Little Rock, Ark.

The name of the payee, as indorsed, must correspond in spelling with that on the face of the warrant; no guarantee of an indorsement, imperfect in itself, can be accepted. If the name of a payee, as written on the face of a warrant, is spelled incorrectly the warrant should be returned to the Third Ass't P. M. Gen'l, for correction. Indorsements by mark (x)

must be certified to by two witnesses, giving their place of residence. Payees and indorsees must indorse by their own hands; officials, officially with full title; firms, the usual firm signature by a member of the firm, not by a clerk or other person for the firm.

(Endorsed:)

LOGAN H. ROOTS,
Att'y for J. T. Chidester.

Pay to the order J. N. Jordon, cashier, for collection for account of Merchants' National Bank, Little Rock, Ark.

P. K. ROOTS, *Cash.*
W. A. BOOTH, *P't.*

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. Paid Jan. 19, 1881. New York. C. H. B.

250 No. 4634.] POST-OFFICE DEPARTMENT. [$57,466.76.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report, No. 9812.)

APRIL 11, 1881.

Pay to L. H. Roots, att'y for J. T. Chidester, or order, fifty-seven thousand four hundred sixty-six $\frac{76}{100}$ dollars.

The assistant treasurer of the U. S. at New York will pay this warrant.

T. L. JAMES,
Postmaster-General.

(Countersigned) J. M. MCGREW,
Auditor P. O. Department.

A. U. WYMAN,
Asst. Treasurer of the United States.

Transportation of the mails.

Residence: Present.

The name of the payee, as indorsed, must correspond in spelling with that on the face of the warrant; no guarantee of an indorsement, imperfect in itself, can be accepted. If the name of a payee, as written on the face of a warrant, is spelled incorrectly, the warrant should be returned to the Third Ass't, P. M. Gen'l, for correction. Indorsements by mark (x) must be certified to by two witnesses, giving their place of residence. Payees and indorsees must indorse by their own hand; officials, officially, with full title; firms, the usual firm signature by a member of the firm, not by a clerk or other person for the firm.

(Endorsed:)

LOGAN H. ROOTS,
Att'y for J. T. Chidester.

Pay to the order of the Hanover National Bank, of New York, for the credit of the Merchants' Nat'l Bank of Little Rock, Ark.

THE HANOVER NATIONAL BANK OF THE CITY OF NEW YORK.
By E. E. WHITTAKER,
Attorney.

(On the margin:) United States Post-Office Department of America.
(Across the face:) 33. April 12, 1881; not— J. W. B. 31434. Paid April 12, 1881, New York. W. C. K.

251 No. 257.] POST-OFFICE DEPARTMENT. [$36,175.91.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 19930.)

JULY 18, 1881.

Pay to L. H. Roots, att'y for J. T. Chidester, or order, thirty six one hundred seventy-five $\frac{91}{100}$ dollars.

The assistant treasurer of the U. S. at New York will pay this warrant.

T. L. JAMES,
Postmaster-General.

(Countersigned) J. H. ELA,
Auditor P. O. Department.

A. U. WYMAN,
Asst. Treasurer of the United States.

Transporation of the mails.

Residence: Little Rock, Ark.

The name of the payee, as indorsed, must correspond in spelling with that on the face of the warrant; no guarantee of an indorsement, imperfect in itself, can be accepted. If the name of a payee, as written on the face of a warrant, is spelled incorrectly, the warrant should be returned to the Third Ass't P. M. Gen'l for correction. Indorsements by mark (x) must be certified to by two witnesses, giving their place of residence. Payees and indorsees must indorse by their own hands; officials, officially, with full title; firms, the usual firm signature by a member of the firm, not by a clerk or other person for the firm.

(Endorsed:)

LOGAN H. ROOTS,
Att'y for J. T. Chidester.

Pay to the order of G. L. Hutchings, cashier for collection for account of Merchants' Nat'l Bank, Little Rock, Ark.

Cashier.
G. L. HUTCHINGS, *Cash.*

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. Paid July 25, 1881, New York. W. C. K.

252 No. 4664.] POST-OFFICE DEPARTMENT. [$31,023.62.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 30304.)

OCT. 22, 1881.

Pay to L. H. Roots, att'y. for J. T. Chidester or orderr, thirty-one thousand twenty-three $\frac{62}{100}$ dollars

The assistant treasurer of the U. S. at St. Louis will pay this warrant.

T. L. JAMES
Postmaster-General.

Countersigned J. H. ELA,
Auditor P. O. Department.

A. U. WYMAN,
Ass't Treasurer of the United States.

Transportation of the mails.

Residence: Little Rock, Ark.

The name of the payee, as indorsed, must correspond in spelling with that on the face of the warrant; no guarantee of an indorsement, imperfect in itself, can be accepted. If the name of a payee, as written on the face of a warrant, is spelled incorrectly, the warrant should be returned to the Third Ass't P. M. Genl. for correction. Indorsements by mark [x] must be certified to by two witnesses, giving their place of residence. Payees and indorsees must indorse by their own hands; officials officially, with full title; firms, the usual firm signature by a member of the firm, not by a clerk or other person for the firm.

(Endorsed:) LOGAN H. ROOTS,
Att'y for J. T. Chidester.

Pay to order of J. A. Stoddard, cashier, for collection for account of Merchants' Nat'l Bank, Little Rock, Ark.

P. K. ROOTS.
J. A. STODDARD,
Cash.

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. U. S. Treasury. Paid Oct. 26, 1881. St. Louis, Mo.

253 No. 329.] POST-OFFICE DEPARTMENT. [$30,665.70.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 1794.)

JULY 14, 1882.

Pay to Logan H. Roots, att'y of J. T. Chidester or order, thirty thousand six hundred sixty-five & $\frac{70}{100}$ dollars.

The assistant treasurer of the U. S. at New York will pay this warrant.

T. O. HOWE,
Postmaster-General.

Countersigned J. H. ELA,
Auditor P. O. Dept.

A. U. WYMAN,
Ass't Treasurer of the United States.

Transportation of the mails.

Residence: Little Rock, Ark.

The name of the payee, as indorsee, must correspond in spelling with that on the face of the warrant; no guarantee of an indorsement imperfect in itself can be accepted. If the name of a payee, as written on the face of a warrant, is spelled incorrectly, the warrant should be returned to the Third Assistant P. M. General for correction. Indorsements by mark [x] must be certified to by two witnesses, giving their places of residence. Payees and indorsees must indorse by their own hands; officials officially, with full title; firms, the usual firm signature by a member of the firm, not by a clerk or other person for the firm.

(Endorsed:) Pay to the order of the Third National Bank New York, for the credit of the Merchants' Nat'l Bank, Little Rock, Ark.

LOGAN H. ROOTS,
Att'y of J. T. Chidester.

LOGAN H. ROOTS, *Presd't M. N. B.*
G. L. HUTCHINGS, *Cash.*

(On the margin:) United States Post-Office Department of America.
(Across the face:) J. W. B. 31454. Paid Jan. 18, 1882. New York.

254 No. 1162.] POST-OFFICE DEPARTMENT. [$13,174.73.

New York series.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 14376.)

APRIL 28, 1882.

Pay to L. H. Roots att'y of J. T. Chidester or order, thirteen thousand one hundred seventy-four & $\frac{73}{100}$ dollars.

The assistant treasurer of the U. S. at New York will pay this warrant.

A. D. HAZEN,
Postmaster-General.

Countersigned J. H. ELA,
Auditor of the Treasury for the P. O. Dept.

A. U. WYMAN,
Assistant Treasurer of the United States.

Transportation of the mails.

Residence: Little Rock, Ark.

Before indorsing read these instructions:

The name of the payee, as indorsee, must correspond in spelling with that on the face of the warrant; no guarantee of an indorsement imperfect in itself can be accepted. If the name of a payee, as written on the face of a warrant, is spelled incorrectly, the warrant should be returned to

the Third Assistant P. M. General for correction. Indorsements by mark [x] must be certified to by two witnesses, giving their places of residence.

Payees and indorsees must indorse by their own hands; officials, officially with full title; firms, the usual firm signature, by a member of the firm not by a clerk or other persons for the firm.

(Indorsed): LOGAN H. ROOTS,
Att'y of J. T. Chidester.

Pay to the order of G. L. Hutchings, cash., for collection for account of Merch'ts Nat'l Bank, Little Rock, Ark.

P. K. ROOTS, *Cash.*

G. L. HUTCHINGS, *Cash.*

(Across the face:) Post-Office Department, U. S. A. Paid May 25, 1882. New York. J. W. B. 31454. U. S.

255 No. 1288.] POST-OFFICE DEPARTMENT. [$4,879.07.

St. Louis series.

To the TREASURER OF THE UNITED STATES:

Warrant. (On Auditor's report No. 24555.)

JULY 26, 1882.

Pay to L. H. Roots, att'y of J. T. Chidester, or order, forty-eight hundred seventy-nine & $\frac{07}{100}$ dollars.

The assistant treasurer of the U. S. at St. Louis will pay this warrant.

A. D. HAZEN,
Postmaster-General.

Countersigned J. H. ELA,
Auditor P. O. Dept.

A. U. WYMAN,
Assistant Treasurer of the United States.

Transportation of the mails.

Residence: Little Rock, Ark.

Before indorsing, read these instructions:

The name of the payee, as indorsee, must correspond in spelling with that on the face of the warrant; no guarantee of an indorsement imperfect in itself can be accepted. If the name of a payee, as written on the face of a warrant, is spelled incorrectly, the warrant should be returned to the Third Assistant P. M. General for correction. Indorsement by marks [x] must be certified to by two witnesses, giving their places of residence.

Payees and indorsees must indorse by their own hands; officials, officially with full title; firms, the usual firm signature by a member of the firm, not by a clerk or other person for the firm.

(Indorsed:) LOGAN H. ROOTS,
Att'y of J. T. Chidester.

Pay to the order of J. H. McClumy, cash., for collection for account of Merchants' Nat'l Bank, Little Rock.

LUCIEN W. COY, *Cashier.*

Received payment, State Saving Association.

J. H. MCCLUMY, *Cashier.*

(Across the face:) Post-Office Department, U. S. A. U. S. Treasury. Paid Aug. 3rd, 1882. St. Louis, Mo. J. W. B. 31454. U. S.

256 OFFICE OF THE AUDITOR OF THE TREASURY,
FOR THE POST-OFFICE DEPARTMENT.

I, D. McConville, Auditor of the Treasury, for the Post-office Department, do hereby certify the annexed to be true and correct copies of original drafts now on file in this office, as follows: No. 20477, Nov. 12, 1880, $204.79, favor L. H. Roots, att'y; No. 1440, Jan. 14, 1881, $1,458.15, favor L. H. Roots, att'y, pertaining to the accounts of J. T. Chidester, in the office of the Sixth Auditor.

In testimony whereof I have hereunto signed my name and caused to be affixed my seal of office, at the city of Washington, District of Columbia, this 22nd day of May, in the year of our Lord one thousand eight hundred and eighty-six.

[SEAL.] D. MCCONVILLE,
Auditor of the Treasury for the Post-office Department.

257 No. 20477.] POST-OFFICE DEPARTMENT. [$204.79.

Draft. J. W. B. 31454. (On Auditor's report No. 33023.)

To the POSTMASTER AT LITTE ROCK, ARK.:

NOV. 12, 1880.

Pay to Logan H. Roots, att'y for J. T. Chidester, or order, one hundred four and $\frac{79}{100}$ dollars.

MADISON DAVIS,
Acting 3rd Asst. Postmaster-Gen'l.
F. B. LILLY,
Acting Auditor P. O. Department.

Transportation of the mail.

Delay in presentation of this draft for payment should be avoided.

Postmasters will refuse payment unless presented within three months from date of issue.

Endorsement must be legally and technically perfect, or the postmaster upon whom drawn will refuse payment.

(Endorsed:)

LOGAN H. ROOTS,
Att'y for J. T. Chidester.

The name of the P. M. on whom this draft is drawn and the name of his office must be inserted in the receipt below,

Received this 15th day of November, 1880, of C. O. Hadley, P. M. at Little Rock, Ark., the amount of the within draft.
The last holder will sign here. J. S. POLLOCK,
Asst. Cash.

(On the margin :) United States Post-Office Department of America

258 No. 1440.] POST-OFFICE DEPARTMENT. [$1,458.15.

To the POSTMASTER AT LITTLE ROCK, ARK. :

Draft. J. W. B. 31454. (On Auditor's report No. 1154.)

JULY 14, 1881.

Pay to Logan H. Roots, att'y J. T. Chidester, or order, fourteen hundred fifty-eight and $\frac{14}{100}$ dollars.

A. D. HAZEN,
3rd Asst. Postmaster Gen'l.
J. M. MCGREW,
Auditor P. O. Department.

Transportation of the mail.

The name of the payee as indorsed must correspond in spelling with that on the face of the draft ; no guarantee of an indorsement, imperfect in itself, can be accepted. If the name of a payee as written on the face of a draft is spelled incorrectly, the draft should be returned to the Third Assistant Postmaster-General for correction. Indorsements by mark (x) must be certified to by two witnesses giving their place of residence.
Payees and indorsees must indorse by their own hands ; officials officially with full title ; firms, the usual firm signature by a member of the firm, not by a clerk or other person for the firm.
(Indorsed :)

LOGAN H. ROOTS,
Atty. for J. T. Chidester.

J. A. POLLOCK,
Asst. Cash. Mer. Nat'l Bank.

Delay in presentation of this draft for payment should be avoided.
Postmasters will refuse payment unless presented within three months from date of issue.

(On the margin :) United States Post-Office Department of America.
(Across the face:) Little Rock, Ark., Jan. 25, 1881, money order department.

259 J. T. CHIDESTER, a witness on the part of the plaintiff, being sworn, testified as follows :

Examined by J. W. HOUSE, U. S. district attorney :
Question. You were subpœnaed as a witness in this case—have you brought with you the papers in reference to this matter, in accordance with that subpœna ?

Answer. All that I had of them, sir.

Q. Will you let us have them?

A. Yes, sir. [Handing papers to U. S. district attorney.]

Q. Are you the John T. Chidester that bid on this route from Fort Worth, Texas, to Yuma, Asizona, at $134,000 per annum.

A. Yes, sir.

Q. What amount of money did you receive? Did you get the amount of money for the entire contract as shown by these statements?

A. I did not.

(Objected to, overruled, exception.)

Q. State when Col. Roots first became interested in this contract, and to what extent that interest went?

A. Well it has been so long ago, I have only the papaers to go by, theu will show. I couldn't make a very correct statement from my memory so long ago.

Q. I will ask you this: When you went to Washington to claim the contract under your bid, was Col. Roots opposing you—trying to prevent the award to you?

A. Yes sir, Col. Roots and *Cr.* Kerrens.

260 Q. Had Kerrens made a bid for this mail route?

A. I don't know that he had directly, sir.

Q. Kerrens and Col. Rootr were opposing you on this contract?

A. Yes, sir.

Q. Now then how long was it after that did you leave Washington until after you and Col. Roots had made the contract as to what interest you should have in this contract?

A. That contract was made by my partner Major Adams and I merely signed the papers, to my recollection. That was so long ago I can't rely upon stating what it was, except the amount.

Q. Was that contract made in Washington that you say was made by your partner, Major Adams?

A. I think it was made in Washington but I can't recollect.

Q. Have you a copy of that contract?

A. None but what I give you, that is the contract I speak of.

Q. Was this contract that you speak of made in Washington?

A. Those are the contracts, and Major Adams had them made and gave them to me.

Q. Colonel Chidester, I will ask you this: Was Col. Roots not interested in this matter before you ever commenced the service, in June or July?

A. Yes, sir.

Q. Now what interest did you have in it then?

A. All that them papers shows now.

261 Q. Is it not a fact Col. Chidester that you and Col. Roots were at Fort Worth about the time or at the time you had the "blow out" there sometime before the service was expedited on this route?

A. I don't recollect that he was. I don't recollect the time he was there. I saw him once in Fort Worth, but I can't recollect the time.

Q. Now you say that Col. Roots became interested in this matter before you actually began the service do you?

A. Yes, sir.

Q. To what extent did that interest go?

A. Just what them papers show.

Q. Whatever interest Col. Roots ever acquired was acquired before the service began, was it not?

A. That is my recollection.

Q. There was no contract made between you and him after that, by which he acquired any additional interest?

A. I don't recollect that there was. I didn't make that with Col. Roots; my partner did.

Q. Now, what interest did you have in the contract that your partner made at any time after it was made?

A. I suppose, I never looked at them papers in my life, that I recollect of; I don't recollect that I ever read them. I believe though, Major Adams did read them to me. I might have read them, but it is too long ago for me to recollect distinctly about it.

Q. You state positively that Col. Roots had acquired an interest; now state if he had acquired that interest before you had got any stock on the route, did he or not?

A. Yes, sir.

262 Q. Now, state what interest or what part of the line you ran, after the service commenced.

A. From Fort Worth to Fort Concho, under that contract that you have.

Q. Did you ever have anything to do with any other portion of the line except that part of it?

A. No, sir.

Q. You had nothing to do with the line west of Fort Concho?

A. No, sir.

Q. You had nothing to do with it in any way further than you have stated?

A. No, sir.

Q. Who made the sub-contracts with the parties beyond Fort Concho?

A. I don't know anything about that.

Q. Then you performed the service from Fort Worth to Concho?

A. Yes, sir; until I sold it out to my partner, Major Adams.

Q. Now, under your agreement with Col. Roots how much did you receive for your part of the service?

A. Judge McCLURE. $24,000.00 a year.

Q. Now, I will ask you this: At what time, when you were in Washington and when this contract was awarded to you, was it not agreed between you and Col. Roots, there at that time, that you should take that part of the line from Fort Worth to Concho, and that Roots should have control of the other part?

A. I think it was, sir.

Q. Then you had nothing to do with the subletting to those parties beyond Concho?

263 A. No, sir; nothing at all.

Q. In making this agreement with Colonel Roots I will ask you this: If it was not an agreement between you and Col. Roots that he would take the contract at $134,000, and allow you to run that part of the line from Fort Worth to Fort Concho?

A. No, sir.

Q. Well, what was the agreement then?

A. The contract shows all the contract I had, and that I say to you was made by my partner, Major Adams.

Q. How is it that by the date it seems this contract was delivered in December, 1878?

A. I don't recollect it. I can't tell anything about it. I don't recollect seeing them until I found them among my papers. My deceased son had all my papers. I didn't get the mail. I didn't get all his effects and his wife has his trunk of papers, and I never have become in possession of them all. He was my secretary, general book-keeper, and agent. I haven't seen these papers since the day I filed them in filing away my papers. It was only last Saturday when I found them.

Q. At the time you took this contract is it not a fact that you were embarrassed and unable to make the bond, and is it not a fact that Col. Roots agreed that if you would turn the contract over to him that you could run that part of the line that you did run, for a given price?

A. No, sir.

(Sub-contract to Adams and Chidester offered in evidence.)

Q. Mr. Chidester, I will ask you how much you were to receive for that portion of the line from Fort Worth to Fort Concho under the
264 contract before the schedule was exhibited?

JUDGE MCCLURE. The contract shows that.

Q. How much did you receive for carrying that part of the line over which you had control from Fort Worth to Fort Concho, before the schedule was expedited?

A. D 18,000 a year, for two hundred and fifty miles as subcontractor; that is the amount I sublet it for.

Q. You sublet it from whom?

A. I sublet it from Col. Roots

Q. How much did you receive from Col. Roots for performing this service after it was expedited?

A. $6,000 a year more, which would make $24,000 a year.

Q. Col. Chidester, you have stated that you subbed that part of the route; how did you sub it from Col. Roots when you had the entire contract?

A. Well, Maj. Adams, as I said, attended to the business for me and whatever he done I relied on. I never asked him about papers that he brought to me, only if they was right. I stated that I didn't recollect seeing one of them contracts until I found it in my papers.

Q. I will ask you this: If you didn't expect a contract aside from these two to Col. Roots, that is at the time negotiations were going on about expediting at the time you and Col. Roots, or about the time, made the agreement, whatever it was, if you didn't sign a contract to Col. Roots in which you agreed to sign any paper which he dictated, which he considered necessary for carrying on and carrying out the service?

A. If my mind serves me I remember such a talk between us, while he was there in the spring. I think there was such a talk between
265 us. My mind serves me that there was a talk about signing papers, and I agreed to do what I could to get the expedition.

Q. When was that?

A. Well, I can't recollect the date.
Q. Was it in Washington?
A. It was in Washington in my recollection.
Q. Was it not before you commenced the service?
A. Yes, sir; my mind serves me in the last of February, or in the month of March. I can't recollect any nearer.
Q. With whom was that conversation had in Washington?
A. Well, that conversation was had between Maj. Adams and Col. Roots and myself.
Q. Now, was not the question of expedition talked of at the time when you was there and when the service was awarded to you?
A. No, sir; it was not when it was awarded to me. Mr. Roots and Kerrens and I, neither, was on good terms then.
Q. How long after the award was it?
A. My mind serves me it was in the last of February or in the month of March; I can't recollect.
Q. You were in Washington at the time?
A. Yes, sir.
Q. Had you remained in Washington from the time the original contract was awarded?
A. When this conversation taken place?
Q. You were still there and had not returned?
A. Yes, sir.
Q. Did you take any part in getting the service expedited beyond the end of your line?
266 A. Yes, sir; I did.
Q. Please state what part you took in that?
Judge McCLURE. I can't see how that is material.
Q. I will ask if you took any active part in getting the expedited service beyond the line over which you had control?
A. Yes, sir.
Q. State in what way.
A. Well, I got the signatures of postmasters saying the service should be expedited, and I went and talked to the delegates from Texas and asked them if they would indorse such papers, and they said they would, and did do it, recommending that the service be expedited by Postmaster-General Key.
Q. What interest was it to you to have the service expedited over that part of the line in which you had no interest?
A. Nothing, only to get the pro rate of $6,000 more mail pay for myself on the part of the line I run. That was all the interest I pretended to have in the line.
Q. That was all the interest you pretended to have in the line?
A. Yes, sir.
Q. I find there is a contract here in which John D. Adams as surety of John T. Chidester to John D. Adams and J. T. Chidester together, with other words of contract, there is no one else mentioned except themselves. Now, did you have exclusive control of the line, or rather part of the line, from Fort Worth to Concho?
A. Yes, sir.
Q. Did Major Adams have a part interest in that line?

A. Yes, sir; he owned one-half of the line and one-half of the
267 stock, and was one-half interested *interested* in what we got for the line.

Q. This appears to me, if I understand it properly, to be a contract of Major Adams subletting that part of the line. I will ask you why that contract was made, the object of making it?

A. I can't tell; I can't answer that; my recollection don't serve me. Major Adams sublet part of the line. Major Adams did the business and I signed the papers without any examination.

Q. You say that you and Major Adams sublet that part of the line?

A. Yes, sir.

Q. How did it happen that you and Major Adams sublet that part of the line when the entire contract belonged to you?

A. Well, I had turned that part of the contract all over to Col. Roots, giving my power of attorney. In fact I didn't consider I had anything to do with it.

Q. Did you mean that to apply to the whole line from Fort Worth, Texas, to Yuma, Arizona?

A. Yes; I meant it to apply to that.

Q. I will ask you: After you made this arrangement with Col. Roots if you didn't go to Col. Roots and insist, in the presence of Major Adams, that as you and your boys were out of it, you wanted something to do, and wanted at least an interest in the contract?

A. Yes, that is so.

Q. Where did you go to then and make that statement?

A. Well, that was after I gave him the power of attorney.

Q. Then you made arrangements for carrying this part of the route?

A. Me and Major Adams. To carry that part of the route.

268 Q. Did you continue on with Major Adams clear through to the end of the contract term?

A. No, sir; I sold out to Major Adams.

Q. How long did you continue under that contract before you sold out to Major Adams?

A. Well, my recollection serves me something in the neighborhood of a year and a half or two years. I can't recollect the date unless I could refresh my memory by the papers.

Q. After that time you had no interest in this line at all, on any part of it, after you sold out to Major Adams the part from Fort Worth to Concho?

A. None whatever, sir.

Q. Now, Mr. Chidester, you have reiterated in your answers that you gave Col. Roots a power of attorney?

A. Yes, sir.

Q. Now, was that power of attorney for the purpose of collecting the money from the Department?

A. Yes, sir.

Q. Had Col. Roots any further interest except to collect the money for you?

A. Well, I never received any of the money, sir.

Q. I would like to have you explain this clause: Where a coach or other suitable vehicle is used for carrying the mails the parties of the

second part shall, without additional charge, carry such employees of the Texas and California Stage Company and such newspaper men and such Government and railroad officials to whom the said company shall deem it expedient to grant free passes * * *.

269 A. That is a Texas and California Stage Company blank.

Q. Do you know who its members were?

A. Well, the members of that company was Colonel Roots, treasurer, I think, and Elkins and Richard Kerrens.

Q. Is Kerrens the same man who put in a bid on this contract?

A. Yes, I think he is; and Major Adams is all the parties I know of.

Q. Do you mean Steve Elkins; is that the one you refer to when referring to Elkins?

A. I don't know his initials, Mr. Elkins.

Q. You know that Col. Roots and Mr. Kerens and Elkins were members of that stage company?

A. Yes, sir; my recollection serves me that way.

Q. What was your line known as; did it have any name except that of the Texas and California Stage Company?

A. Well, some of the line, from Fort Worth to Concho, was Chidester and Adams, and the next was C. Bain.

Q. I mean the entire line; did you have any name covering the entire line?

A. No, sir; except my name.

Cross-examination by JOHN MCCLURE, attorney for defendants:

Q. You say you subcontracted with Col. Roots, at least I so understand you, for that part of the route between Fort Worth and Fort Concho?

A. Yes: no further than that, is my recollection. I recollect having a talk with Major Adams and Col. Roots together, and my mind

270 serves me it was a subcontract, and I can't find any other contract but what I have brought here.

Q. Did you have any other contract than those two?

A. Not that I recollect of. Not that I could find anything more than a verbal talk with them.

Q. You say that you and Major Adams were the contractors on that portion of the route between Forth Worth and Concho.

A. Yes, sir.

Q. State, if you know, what number of men and animals you had employed upon that route, between Fort Worth and Concho?

(Objected to; objection sustained.)

JOSEPH COCHRAN, recalled on the part of the plaintiff.

Who testified as follows:

Examined by J. W. HOUSE, U. S. district attorney:

Q. Reference was had yesterday to a distance circular which was filed in the Department, have you got it with you?

A. Yes, sir [producing paper].

(The U. S. district attorney offered in evidence a distance circular, giving list of offices and distances from Fort Worth to Yuma.

(Objected to.)

Q. How are distance circulars gotten up?

A. Well, the advertisement states the distances on a route, as far as the Department knows at the time the route is advertised. The advertisement of the 1st of November, 1877, was prepared several months pre-
271 vious to November. The advertisement set forth that the distances given therein are substantially correct, but that the bidder must inform himself on that point, as they will not be given any increase of pay on account of the distance, as the distance is not an element of the contract, as the contract does not specify that it is so many miles. Then, after the contract is awarded, I think the custom was on the 1st of July to send the contractor that form of a distance circular, in order to have the books of the Department corrected as to the distances. It is made the duty of the contractor to present it to each postmaster on the route, in order that they may certify to the distances between their several offices, signing their names in the blank in the certificate, and then it is returned to the Post-Office Department, and the distances are corrected on the books, and the total is made from the aggregate of all. The Department official statement of distances is as nearly correct as it can be obtained.

(Objection was then sustained. Exception taken.)

Q. Mr. Cochran, did you have any instruction from Col. Chidester directing that his mail in regard to this line should be sen*d* to Logan H. Roots, of Little Rock?

A. No; to be addressed to him in Col. Roots' care.

Have you a copy of the letter with you?

A. Yes, sir.

The following letter was then read in evidence. (Exhibit G.)

EXHIBIT G.

MAY 20*th*, 18 7

To the Hon. POSTMASTER-GENERAL.

272 DEAR SIR: I respectfully request that until otherwise directed that all communications intended for me concerning transportation of mails upon route 31454 be sent me in care of Logan H. Roots, Little Rock, Arkansas.

I am, sir, very respectfully, your obedient servent,

J. T. CHIDESTER,
Contractor.

(Indorsed:) Route 31454. J. T. Chidester, contractor, requests that his post-office address be so changed upon the books of the Department that all communications to him concerning route 31454 be sent in care of Logan H. Roots, Little Rock, Ark.

D. T. KELLEHER recalled on the part of the plaintiff.

Examined by J. W. HOUSE, U. S. district attorney:

Q. When yos were on the stand yesterday you spoke about those warrants. I am not sure whether you spoke about the indorsements or not. But the warrants were made payable to Logan H. Roots, attorney for John T. Chidester. Now, are there any indorsements on those original warrants?

A. Yes, sir.

Q. Have you the original?

A. Yes, sir.

(The original post-office mail pay warrants on route 31454 were exhibited to the jury.)

The COURT. The indorsements will be considered in evidence.

* * * * * * *

Plaintiff then read in evidence a certified copy of statement of the accounts of J. T. Chidester, which is Exhibit I, and is in words and figures as follows, to wit:

273 Plaintiff then read in evidence a certified copy of statement of the account of J. T. Chidester, whice is exhibit I, and is in words and figures as follows, to wit:

Ex. I.

[Form of certificate.]

OFFICE OF THE AUDITOR OF THE TREASURY,
FOR THE POST-OFFICE DEPARTMENT.

I, D. McConville, Auditor of the Treasury for the Post-Office Department, do hereby certify the annexed to be a true and correct statement from the records of this office of the accoune of J. T. Chidester, late contractor for the transportation of the mails on route No. 31454 from July 1st, 1878, to June 30th, 1882, pertaining to the accounts of J. T. Chidester, late contractor on route 31454, in the State of Texas, in the office of the Sixth Auditor of the Treasury.

In testimony whereof I have hereunto signed my name and caused to be affixed my seal of office at the city of Washington this 4th day of January, in the year of our Lord one thousand eight hundred and eighty-seven.

[SEAL.] D. MCCONVILLE,
Sixth Auditor, and Auditor of the Treasury for the Post-Office Department.

274 STATEMENT OF ACCOUNT.

J. T. Chidester, contractor, in account with the United States.

Route 31454.

	Dr.
To collections from postmasters, 2 qr., ended Sep. 30, 1878	$1,609.30
" warrant No. 10492, dated Oct. 3, 1878, on St. Louis, Mo	54,573.37
" collections from postmasters, 2 qr., ended Dec. 31, 1878	1,307.62
" fines and deductions reported Jan. 4, 1879	1,453.53
" warrant No. 13723, dated Jan. 4, 1879, on St. Louis, Mo	20,000.00
" " " 13724, " " " " " " " "	20,000.00
" " " 13725, " " " " " " " "	15,000.00
" " " 13726, " " " " " New York, N. Y	16,687.17
" collectiins from postmasters, 2 qr., ended March 31, 1879	2,132.61
" fine reported April 5, 1879	100.00
" warrant No. 2540, dated April 3, 1879, on New York, N. Y	25,000.00
" " " 2541, " " " " " St. Louis	48,342.38
" collections from postmasters qr. ended June 30, 1879	2,156.78
" fine reported July 12, 1879	375.00
" warrant No. 5796, dated July 9, 1879, on Washington, D. C	21,000.00
" " " 5797, " " " " " New York, N. Y	30,000.00
" " " 5798, " " " " " " " " "	21,242.39

Route 31454.—*J. T. Chidester, contractor, etc.*—Continued. Dr.

To collections from postmasters qr. ended Sep. 30, 1879	$2,127.55
" deductions reported Oct. 11, 1879	565.46
" warrant No. 9087, dated Oct. 9, 1879, on St. Louis, Mo	30,000.00
" " " 9088, " " " " " " " "	10,000.00
" " " 9089, " " " " " New York, N. Y	33,461.29
" collections from postmasters qr. ended Dec. 31, 1879	2,611.18
" deductions (reported Jan. 10, 1880)	645.66
To warrant No. 12566, dated Jan. 10, 1880, on New York	71,976.79
275 " collections from postmasters qr. ended Mar. 31, 1880	8,871.90
" deductions (reported April 10, 1880)	2,154.54
To warrant No. 3194, dated April 9, 1880, on New York	35,000.00
" " " 3195, " " " " " " "	34,984.28
" colllections from postmasters qr. ended June 30, 1880	3,039.12
" warrant No. 6695, dated July 7, 1880, on New York	45,000.00
" " " 6696, " " " " " " "	20,878.10
" " " 10542, " Sep. 14, " " St. Louis, Mo	375.00
" " " 10543, " " " " " " "	1,196.78
" deductions reported Oct. 9, 1880	1,458.15
" warrant No. 10694, dated Oct 9, 1880, on St. Louis	50,000.00
" " " 10695, " " " " " New York	25,485.71
" draft No. 20477, dated Nov. 12, 1880, on P. M. at Little Rock	204.79
" fines and deductions reported Jan. 8, 1881	1,915.52
" warrant No. 1102, dated Jan. 10, 1881, on New York	57,475.61
" " " 1440, " " 15, 1881, " P. M., Little Rock	1,458.15
" " " 4634, " April 11, 1881, on New York	57,466.76
" deductions reported July 16, 1881, "	1,761.30
" warrant No. 259, dated July 18, 1881, on New York	36,175.91
" deductions reported Oct. 22, 1881	3,195.20
" warrant No. 4664, dated Oct. 22, 1881, on St. Louis	31,023.62
" deductions reported Jan. 14, 1882	257.15
" warrant No. 329, dated Jan. 14, '82, on New York	30,665.70
" " " 1162, " April 28, '82, " " "	13,174.73
" deductions reported July 22, 1882	48.35
" warrant No. 1288, dated July 26, 1882, on St. Louis	4,879.07
	900,513.50

276 Route 31454. Cr.

By transportation from July 1, 1878, to June 30, 1880, at $33,500 per quarter	268,000	
" $41,250 more per qr. from Aug. 15, '78, to June 30, 1880, under order No. 6391	309,823.37	
		$577,823.37
" remission of deductions reported Jan. 4, 1879		1,433.53
" " " " " July 12, 1879		375.00
" " " " " Oct. 11, 1879		565.46
" " " " " Jan. 10, 1880		631.30
" transportation from July 1 to Sep. 30, 1880	$74,750.00	
$15,358.87 less per qr. from Sep. 20, 1880 (order 1386)	1,836.39	
	72,913.61	
One month's extra pay under order No. 11368	5,119.62	
		78,033.23
Leave pay at $59,319.13 per qr.		
By remission of part of deduction reported April 10, 1880		204.79
" " " " " " " " " "		1,949.75
" transportation Oct. 1 to Dec. 31, 1880		59,391.13
" remission of deduction reported Oct. 9, 1880		1,458.15
" transportation from Jan. 1, to Mar. 31, 1880	$59,391.13	
" $6,604.84 less per qr. from Jan. 1, '81 (order No. 13614)	6,604.84	
	52,786.29	
One month's extra pay, order 13614	2,201.61	
		54,987.90

Route 31454.—*J. T. Chidester, contractor, etc.*—Continued. Cr.

Leaves pay at $52,886.29 per qr.		
$13,943.55 less per qr. from Mar. 18, '81 (order No. 2444)	$2,169.99	
	52,818.91	
Leaves pay at $38,842.24 pr. qr.		
One month's extra pay under No. 2444	4,647.85	
		$57,466.76
277 By transportation from April 1 to June 30, '81	38,842.74	
$1,887 less per qr. from April 18, '81 (or. No. 3335)	1,534.56	
	37,308.18	
Leaves pay at $36,955.64 per qr.		
One month's extra pay under order 3335	629.03	
		37,937.21
By transportation from July 1 to Sep., '81	36,955.64	
$3,407.26 less per qr. from July 1, '81 (order No. 7713)	3,407.26	
	33,548.38	
One month's extra pay, order 7713 (allowed)	1,135.75	
	34,684.13	
Leaves pay at $33,548.38 per qr.		
$2,620.97 less per qr. from Aug. 15, '81 (order No. 10662)	1,338.97	
	33,345.16	
One month's extra pay allowed (per order No. 10682)	873.66	
		34,218.82
Leaves pay at $30,927.41 per qr	30,927.41	
$1,258.06 less per qr. from Dec. 1, '81 (or. No. 15755)	423.91	
	30,503.50	
One month's extra pay allowed (per order 15755)	419.35	
		30,922.85
Leaves pay at $29,669.35 per qr.		
By trans. from Jan. 1 to Mar. 31, 1882	29,669.35	
$24,741.93 less per qr. from Jan. 1, '82 (order 17166)	24,741.93	
	4,927,42	
One month's ex. pay allowed (order 17166)	8,247.31	
		13,174.73
Leaves pay at $4,927.42 per qr.		
By trans. from April 1 to June 30, 1882		4,927.42
		900,513.50

OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT,
Washington, D. C., January 4th, 1887.

D. MCCONVILLE,
Auditor.

278 Plaintiff then introduced a certified copy of the original contract of J. T. Chidester for route No. 31454, which is exhibit J, and is in words and figures following to wit:

EXHIBIT J.

POST-OFFICE DEPARTMENT,
Washington, D. C., Oct. 4th, 1884.

I certify that the annexed is a true copy taken from the files and records of this Department.

In testimony whereof, I have hereunto set my hand and caused the seal of the Post-Office Department to be affixed the day and year above written.

[SEAL.] FRANK HATTON,
Acting Postmaster-Gen'l.

UNITED STATES OF AMERICA.
Camden, Ouachita Co., Ark.

No. 31454. $134,000 per annum.

This article of contract made the 20th day of March, eighteen hundred and seventy-eight, between the United States of America [acting in this behalf by the Postmaster-General] and J. T. Chidester, contractor, and John D. Adams, F. C. Taylor, S. W. Fordyce, Geo. W. McDiarmid, Thomas B. Price and J. B. Price as his sureties:

Witnesseth, that whereas J. T. Chidester has been accorded according to law a contract for transporting the mail on route number 31454 from Fort Worth, Texas, by Bear Creek, Thorp's Spring, Paluxy, Rock Falls, Stephensville, Dublin, Proctor Comanche, Blanket, Brownwood, Jim Ned, Camp Colorado, Coleman, Walthall, Fort Concho, Camp Stickton, Fort Davis, Fort Quitman, San Elizario, Ysleta, El Paso, Tex.; Mesilla, Fort Cummings, Fort Bayard, Pinos Altos, Silver City, N. Mexico; Apache Pass, Tucson, Florence, Maricopa, Wells, and Gila Bend, to Yuma, Arizona, and back, seven times a week, by a schedule satisfactory to the Department, at one hundred and thirty-four thousand dollars per year, for
279 and during the term beginning July first, eighteen hundred and seventy-eight, and ending June thirtieth, eighteen hundred and eighty-two: Now, therefore, the said contractor and all his sureties do, jointly and severally, undertake, covenant, and agree with the United States of America, and do bind themselves—

1st. To carry the said mail with certainty, celerity, and security, using therefor such means as may be necessary to transport the whole of said mail, whatever may be its size, weight, or increase, during the term of this contract, and within the time fixed in the annual schedule of departures and arrivals, and so to carry until said schedule is altered by the authority of the Postmaster-General of the United States, as hereinafter provided, and the' to carry according to such altered schedule, and in all cases to carry said mail in preference to passengers and freight, and to their entire exclusion if its weight, bulk, or safety shall so require. And they will carry the mail upon demand, by any conveyance which said contractor regularly runs, or is concerned in running, on the route beyond the number of trips specified in the same manner and subject to the same regulations as are herein provided touching regular trips.

2nd. To carry the mail in a safe and secure manner, free from wet or other injury, under a sufficient oil-cloth or bear-skin if carried on a horse, and in a boot under the driver's seat if carried in a coach or other vehicle.

3rd. To take the mail and every part thereof from, and deliver and every part thereof at, each post-office on the route, or that may be hereafter established on the route, [or on any route that may hereafter be established

and to which this contract may be extended as hereinafter provided], and into the post-office at each end of the route, and into the post-office, if one is there kept, at the place at which the carrier stops for the night, and if no post-office is there kept, to lock it up in some secure place, at the risk of the contractor.

280 They also undertake, covenant, and agree with the United States of America, and do bind themselves, jointly and severally, as aforesaid, to be accountable and answerable in damages for the person to whom the said contractor shall commit the care and transportation of the mail, and his careful and faithful performance of the obligations assumed herein and those imposed by law, not to commit the care or transportation of the mail to any person under sixteen years of age; to discharge any carrier of said mail whenever required so to do by the Postmaster-General; not to transmit, by themselves, or either of them, or either of their agents, or be concerned in transmitting, commercial intelligence more rapidly than by mail; not to carry otherwise than in the mail letters, packets, or newspapers which should go by mail or convey or transport any person engaged in carrying letters, packets, or newspapers which should go by mail; to carry post-office blanks, mail-locks and bags, and other postal supplies, and also the special agents of the Department on the exhibition of their credentials, if a coach or other suitable conveyance is used, without additional charge; to collect quarterly, if requred by the Postmaster-General, of postmasters on the route the balance due from them to the United States on their quarterly returns, and faithfully to render an account thereof to the Postmaster-General in the settlement of the quarterly accounts of said contractor, and to pay over to the Auditor of the Treasury for the Post-Office Department, on the order of the Postmaster-General, all balances remaining in his hands. For which services, when performed, the said J. T. Chidester, contractor, is to be paid by the United States the sum of one hundred and thirty-four thousand dollars a year, to wit, quarterly, in the months of November, February, May, and August, through the postmasters on the route, or otherwise, at the option of the Postmaster-General; said pay to be subject, however, to be reduced or discontinued by the Postmaster-General as hereinafter stipulated, or to be suspended in case of delinquency.

281 It is hereby stipulated and agreed by the said contractor and his sureties that the Postmaster-General may discontinue or extend this contract, change the schedule and termini of the route, and alter, increase, decrease, or extend the service in accordance with law, he allowing a pro rata increase of compensation for any additional service thereby required, or for increased speed, if the employment of additional stock or carriers is rendered necessary; and, in case of decrease, curtailment, or discontinuance of service, as a full indemnity to said contractor, one month's extra pay on the amount of service dispensed with, and a pro rata compensation for the service retained; provided, however, that in case of increased expedition the contractor may, upon timely notice, relinquish the contract.

It is hereby also stipulated and agreed by the said contractor and his sureties as aforesaid that they shall forfeit—

1. The pay of a trip when it is not run, and, in addition, if no suffi-

cient excuse for the failure is furnished, an amount not more than three times the pay of the trip.

2. At least one-fourth of the pay of a trip when running is so far behind time as to fail to make connection with a depending mail.

3. For violating any of the foregoing provisions touching the transmission of commercial intelligence more rapidly than by mail, or giving preference to passengers or freight over the mail or any portion thereof, or for leaving the same for their accommodation, or carrying otherwise than in the mail matter which should go by mail, or transporting persons engaged in so doing with knowledge thereof, a penalty equal to a quarter's pay.

4. For violating any other provision of this contract touching the carriage of the mails, at the time and manner thereof, without a sat-
282 isfactory explanation of the delinquency, in due time, to the Postmaster-General, a penalty in his discretion. That these forfeitures may be increased into penalties of a higher amount, in the discretion of the Postmaster-General, according to the nature or frequency of the failure and the importance of the mail: *Provided*, That, except that as herein otherwise specified, and except as provided by law, no penalty shall exceed three times the pay of a trip in each case.

And it hereby further stipulated and agreed by the said contractor and his sureties that the Postmaster-General may annul the contract for repeated failures, for violating the postal laws, for disobeying the instructions of the Post-Office Department, for refusing to discharge a carrier when required by the Department, for transmitting commercial intelligence or matter which should go by the mail, contrary to the stipulations herein, for transporting persons so engaged as aforesaid, whenever the contractor shall become a postmaster, assistant postmaster, or member of Congress, and whenever, in the opinion of the Postmaster-General, the service can not be safely continued, the revenues collected, or the laws maintained on the road or roads herein.

And it is hereby further stipulated and agreed that such annulment shall not impair the right to claim damages from said contractor and his sureties under this contract; but such damages may, for the purposes of set-off or counter-claim, in the settlement of any claim of said contractor or his sureties against the United States, whether arising under this contract or otherwise, be assessed and liquidated by the Auditor of the Treasury for the Post-Office Department.

And it is hereby stipulated and agreed by the said contractor and his sureties that this contract may, in the discretion of the Postmaster-General, be continued in force beyond its express terms for a period not
283 exceeding six months, until a new contract with the same or other contractors shall be made by the Postmaster-General.

And this contract shall, in all its parts, be subject the terms and requirements of the act of Congress approved April twenty-first, one thousand eight hundred and eight, entitled "An act concerning public contracts," and of the act of Congress approved June eighth, one thousand eight hundred and seventy-two, entitled "An act to revise, consolidate, and amend the statutes relating to the Post-Office Department."

In witness whereof the said Postmaster-General has caused the seal of the Post-Office Department to be hereto affixed, and has attested the same

by his signature, and the said contractors and his sureties have hereunto set their hands and seals the day and year set opposite their names respectively.

Signed, sealed, and delivered by the Postmaster-General in the presence of—

J. N. DORRIS.

D. M. KEY,
Postmaster-General.

And by the other parties hereto in the presence of—
WM. J. BROWN as to J. B. and THOMAS B. PRICE.
LOGAN H. ROOTS,
THOMAS L. GULLOCK,
Witnesses.

J. T. CHIDESTER, [SEAL.]
Contractor, March 26, 1878.
JOHN D. ADAMS, [SEAL.]
Surety, March 26, 1878.
F. C. TAYLOR, [SEAL.]
Surety, March 27, 1878.

Signed this 28th day of March, 1878.
GEORGE W. MCDIARMID, [SEAL.]
Surety.

Signed this 29th day of " 1878.
J. B. PRICE, [SEAL.]

Signed this 29th day of " 1878.
THOS. B. PRICE, [SEAL.]
Sureties.

284 POST-OFFICE, WASHINGTON, D. C.,
March 29th, 1878.

I hereby certify that John D. Adams, S. W. Fordyce, George L. McDiarmid, of Arkansas, Frank C. Taylor, of Texas, and James B. Price, and Thomas S. Price, of Missouri, are good and sufficient sureties for the amount of the foregoing contract.

J. M. ECHMONDS,
Postmaster.

The schedule of departures and arrivals.

Leave Fort Worth daily at 6 a. m.
Arrive at Yuma in 17 days.
Leave Yuma daily at 6 a. m.
Arrive at Fort Worth in 17 days.

Provided, That when more than seven minutes are taken for opening and closing the mails at any office, the surplus time so taken is to be allowed in addition to the time fixed in this schedule.

Certificate of the oath of mail contractors and carriers required by act of Congress of June 8, 1872, as amended by act of March 5, 1874, 18th Stats., p. 19.

[Take this oath after signing the foregoing contract.]

I, John T. Chidester, being "employed in the care, custody, and conveyance of the mail," as contractor on route No. 31454, from Fort Worth, Texas, to Yuma, Territory of Arizona, do swear that I will faithfully perform all the duties required of me, and abstain from every-
285 thing forbidden by the laws in relation to the establishment of post-offices and post-roads within the United States; and that I will honestly and truly account for and pay over all moneys belonging to the said United States which may come into my possession or control. And I do further solemnly swear that I will defend and support the Constitution of the United States against all enemies, foreign or domestic. So help me God.

J. T. CHIDESTER,
Contractor.

CITY OF WASHINGTON,
District of Columbia, ss:

Sworn before the subscriber, E. J. Middleton, jr., a notary public for the county and State aforesaid, this 28th day of March, A. D. 1878, and I also certify that the person above named is above the age of twenty-one years to the best of my knowledge and belief.

E. J. MIDDLETON, Jr., [SEAL].
Notary Public.

NOTE.—When the oath is taken before a justice of the peace or any other officer not using a seal, except a judge of a United States court, the certificate of the clerk of a court of record must be added under his seal of office that the person who administered the oath is duly qualified as such officer.

* * * * * * *

Plaintiff then introduced in evidence the sub-contract between J. T. Chidester and John D. Adams, which is in the words and figures, as follows, to wit:

286 *Texas and California Stage Company.*

Contract with subcontractor. [To be executed in duplicate.]

Part of route 31454.
From Fort Worth, Tex., to Fort Concho, Texas, until June 30, 1882.
Seven trips per week, $18,000.

Whereas John T. Chidester has been accepted, according to law, as contractor for transporting the United States mails on Route No. 31454, from Fort Worth, Texas, to Fort Yuma, Arizona, by the United States

Post-Office Department, in which contract, it is believed, are the stipulations and agreements, as follows:

The said contractor and his sureties do jointly and severally undertake, covenant, and agree with the United States of America, and do bind themselves—

1st. To carry said mail with certainty, celerity, and security, using therefor such means as may be necessary to transport the whole of said mail, whatever may be its size, weight, or increase during the term of this contract and within the time fixed in the annexed schedule of departures and arrivals; and so to carry until said schedule is altered by the authority of the Postmaster-General of the United States, as hereinafter provided, and then to carry according to such altered schedule; and in all cases to carry said mail in preference to passengers and freight, and to their entire exclusion if its weight, bulk, or safety shall so require. And that they will carry the mail, upon demand, by any conveyance which said contractor regularly runs or is concerned in running on the route beyond the number of trips specified, in the same manner and subject to the same regulations as are herein provided touching regular trips.

287 2nd. To carry the mail in a safe and secure manner free from wet or other injury, under a sufficient oil-skin or bear-skin, if carried on a horse, and in a boot under the driver's seat if carried in a coach or other vehicle.

3rd. To take the mail and every part thereof from, and deliver it and every part thereof at, each post-office on the route, or that may hereafter be established on the route [or on any route that may hereafter be established and to which this contract may be extended as hereinafter provided], and into the post-office at each end of the route, and into the post-office, if one is there kept, at the place at which the carrier stops for the night, and if no post-office is there kept, to lock it up in some secure place at the risk of the contractor.

They also undertake, covenant, and agree, with the United States of America, and do bind themselves, jointly and severally, as aforesaid to be accountable and answerable in damages for the person to whom the said contractor shall commit the care and transportation of the mail, and his careful and faithful performance of the obligations assumed herein and those imposed by law, not to commit the care or transportation of the mail to any person under sixteen years of age; to discharge any carrier of said mail whenever required so to do by the Postmaster-General; not to transmit, by themselves, or either of them, or either of their agents, or be concerned in transmitting, commercial intelligence more rapidly than by mail, not to carry otherwise than in the mail, letters, packets, or newspapers which should go by mail, or convey or transport any person engaged in carrying letters, packets, or newspapers which should go by mail; to carry post-office blanks, mail locks and bags, and other postal supplies, and also the special agents of the department, on the exhibition of their credentials, if a coach or other suitable conveyance is used without additional charge; to collect quarterly, if required by the Postmaster-General, of post-masters on the route the balance due from them to the United States on

288 their quarterly returns, and faithfully to render an account thereof to the Postmaster-General in the settlement of the quarterly accounts

of said contractor, and to pay over to the Auditor of the Treasury for the Post-Office Department, on the order of the Postmaster-General, all balances remaining in his hands.

For which services when performed, the said contractor is to be paid by the United States quarterly, in the months of November, February, May, and August, through the postmasters on the route, or otherwise, at the option of the Postmaster-General; said pay to be subject, however, to be reduced or discontinued by the Postmaster-General, as hereinafter stipulated, or to be suspended in case of delinquency.

It is hereby stipulated and agreed by the said contractor and his sureties that the Postmaster-General may discontinue or extend this contract, change the schedule and terminii of the route, and alter, increase, decrease, or extend the service, in accordance with law, he allowing a pro rata increase of compensation for any additional service thereby required, or for increased speed, if the employment of additional stock or carriers is rendered necessary; and, in case of decrease curtailment, or discontinuance of service, as a full indemnity to said contractor, one month's extra pay on the amount of service dispensed with, and a pro rata compensation for the service retained; provided, however, that in case of increased expedition, the contractor may, upon timely notice, relinquish the contract.

It is hereby also stipulated and agreed by the said contractor and his sureties, as aforesaid, that they shall forfeit—

1. The pay of a trip, when it is not run, and, in addition, if no sufficient excuse for the failure is furnished, an amount not more than three times the pay of the trip.

2. At least one-fourth of the pay of a trip when running is so far behind time as to fail to make connection with a depending mail.

289 3. For violating any of the foregoing provisions touching the transmission of commercial intelligence more rapidly than by mail; or giving preference to passengers or freight over the mail or any portion thereof, or for leaving the same for their accommodation; or carrying otherwise than in the mail, matter which should go by mail; or transmitting persons engaged in so doing, with knowledge thereof, a penalty equal to a quarter's pay.

4. For violating any other provision of this contract touching the carriage of the mails, or the time and manner thereof, without a satisfactory explanation of the delinquency, in due time, to the Postmaster-General, a penalty in his discretion. That these forfeitures may be increased into penalties of a higher amount, in the discretion of the Postmaster-General, according to the nature or frequency of the failure and the importance of the mail. *Provided*, that except as herein otherwise specified, and except as provided by law, no penalty shall exceed three times the pay of a trip in each case.

And it is hereby further stipulated and agreed by the said contractor and his sureties that the Postmaster-General may annul the contract for repeated failures; for violating the postal laws; for disobeying the instructions of the Post-Office Department; for refusing to discharge a carrier when required by the Department; for transmitting commercial intelligence or matter which should go by mail, contrary to the stipulations herein; for transporting persons so engaged as aforesaid; whenever the contractor shall become a postmaster, assistant postmaster, or member of

Congress; and whenever in the opinion of the Postmaster-General, the service can not be safely continued, the revenues collected, or the laws maintained on the road or roads herein.

And it is hereby further stipulated and agreed that such annulment shall not impair the right to claim damages from said contractor and his sureties undr this contract; but such damages may, for the purpose
290 of setoff or counterclaim, in the settlement of any claim of said contractor or his sureties against the United States, whether arising under this contract or otherwise, be assessed and liquidated by the Auditor of the Treasury for the Post-Office Department.

It is hereby stipulated and agreed by the said contractor and his sureties that this contract may, in the discretion of the Postmaster-General, be continued in force beyond its express terms for a period not exceeding six months, until a new contract with the same or other contractors shall be made by the Postmester-General.

And this contract shall in all its parts be subject to the terms and requirements of the act of Congress approved April twenty ferst, one thousand eight hundred and eight, entitled "An act concerning public contracts," and of the act of Congress approved June eighth, one thousand eight hundred and seventy two, entitled " An act to revise, consolidate, and amend the statutes relating to the Post-Office Depestment."

This indenture witnesseth, that on the 4th day of April, 1878, John D. Adams (a surety of J. T. Chidester), party of the first part, and J. T. Chidester and John D. Adams, making the party of the second part, have agreed as follows, to wit: The said ——— ——— and his sureties do jointly and severally undertake, covenant, and agree, and do bind themselves, to transport the mails between Fort Worth and Fort Concho, on the route aforementioned, between the places named, for the period of time from the first day of July, 1878, to the thirtieth day of June, 1882, inclusive, in accordance with the schedule time furnished by the Post-Office Department, and in full and complete compliance with the requirements of the United States Government, and subject to all responsibilities, requirements, and liabilities of Government contractors, for an annual sum, as follows:

291 Seven trips, each way, per week ($18,000), eighteen thousand dollars.

And where a coach or other suitable conveyance is used for carrying the mails, the party of the second part shall, without additional charge, carry such employees of the Texas and California Stage Company, and such newspaper men and such Government and railroad officials to whom said company shall deem it expedient to grant free passes.

And the party of the second part agrees to use the utmost energy in seeing that the reports of the service are promptly forwarded by the postmasters to the Department and the subcontractors will also forward duplicate copies to the treasurer of the Texas and California Stage Company.

And should the Post-Office Department require to extend or increase the distance upon said route, or any part thereof, the said party of the second part shall perform the additional service required, receiving from the party of the first part an additional compensation for such service in pro rata proportion to the amount to be received by the party of the second part hereto from the party of the first part hereunto for the service herein pro-

vided for, the party of the first part hereby agreeing to pay such additional compensation quarterly, as herein provided for; and the said party of the second part further agrees that should the Post-Office Department decrease or curtail the said service upon said route, or any part thereof, that his annual compensation shall be decreased in pro rata proportion to the service decreased; and the said party of the second part covenants and agrees to and with said party of the first part that if any deductions shall be made by the Post-Office Department because the mails between the aforesaid places not being carried promptly and securely as per agreement, he will pay the said party of the first part all loss and damages which he may sustain in consequence thereof by way of deduction made by the Post-Office Department.

292 And the party of the first part covenants, agrees, and binds himself to pay, or cause to be paid, for each quarter's service, within thirty days after the official certificates of service of the terminal postmasters are forwarded to and received by the U. S. Post-Office Department and the treasurer of the Texas and California Stage Company, or in lieu of him to such person as the party of the first part may direct, and the collection orders are all returned or accounted for to the party of the first part or to the treasurer of the Texas and California Stage Company.

The price herein agreed upon is understood to allow a schedule of time of three days between Fort Worth and Fort Concho, and in case of the schedule being expedited by the Government, the second party hereto agrees to expedite the speed and thus decrease schedule the time each way between Fort Concho and Fort Worth to two days, or forty eight hours, and the party of the first part agrees to pay an increased compensation of ($6,000) six thousand dollars per annum for said expedition.

And the party of the second part, in addition to transporting the mails over the line aforesaid, covenants and hereby becomes fully bounden to maintain a good line of passenger coaches over the line, going at least three trips each way per week, during the pendency of this contract.

To the faithful performance of all and every the covenants and agreements hereinbefore mentioned the parties do bind themselves, and in testimony thereof do hereto set their hands and seals on the date aforementioned.

JOHN D. ADAMS, [SEAL.]
Surety for U. S. Government Contractor.

Witness:
R. C. KERENS.

by J. T. CHIDESTER,
His Att'y in Fact.
JOHN D. ADAMS, [SEAL.]
Subcontractors.

293 Subcontractors please remember:

It is their duty to see that the terminal postmasters promptly and properly report the service to the Post-Office Department.

Subcontractors must account for all collection orders to the treasurer of the Texas and California Stage Company, and also forward to him duplicates of the postmasters' reports of service. After reports and proper re-

turns of collection orders are received by the Department and stage company subcontractors will be paid, without waiting for any delays on the part of the Government.

Subcontractors only complicate and create delays by endeavoring to correspond with the Post-Office Department about any service which is being performed under a subcontract.

The Government only pays for service certified to have been performed; so that the mail should always be started every trip, no matter if there is high waters or other obstructions, and the mail should be carried each trip as far as possible; and if obstructions prevent its going clear through evidence should be produced showing how far the mail was carried, and then the Government will pay pro rata whether the distance be long or short. But under no circumstance should a contractor fail to start the mail and send it as far as possible.

In case of the establishment of a new post-office and in order for it to be visited by the carrier, the order must be promptly complied with. But if to do so causes an increase of distance, duplicate certificates should be obtained from one or more postmasters and forwarded, one copy by a postmaster to the Department and one by the subcontractor to the treasurer of the Texas and California Stage Company, showing the increase of distance, and for it the subcontractor will thereafter receive pro rata increase of pay.

(Here plaintiff closed.)

294 Defendants, to maintain issues on their side, introduced following testimony, to wit:

Testimony for defendants.

JOHN D. ADAMS, a witness on the part of the defendants, being sworn, testified as follows:

Examined by JOHN MCCLURE, attorney for defendants:

Question. Examine the paper now handed you and state what you know about it?

Answer. That is a contract Col. Roots and myself made in Washington after this contract had been awarded to Col. Chidester. I was one of the bondsmen for Col. Chidester, and there was quite a number of others from Arkansas, Col. Fordyce and others.

Q. Go on and state how you came to make a contract on this route; all about it?

A. That is what I propose to do. Col. Chidester made a bid for this route. He was an old stage man and I didn't know much about stage business. I went on his bond; in fact I made his bond for him. And after the contract was awarded him, as the lowest bidder, a heavy fight was made against him for the contract by the other bidders, and after a long contest the contract was awarded to him. I found that I had done something that I would be sorry for afterwards. The fight was made principally against him by Mr. Kerrens and a man by the name of Carr; they were the men who made the heaviest fight against us. I then, being on good terms and close relations with Col. Roots, borrowed a good deal of money from him. I went to him to help me out of the scrape. They had the line stocked through from Yuma to Concho, right at this time,

and I made temporary arrangements with them for three months, until we could do something. I saw that we were in for a failure unless something was done, and I made a temporarn contract. I don't know whether
295 it is in those papers or not. Col. Chidester saw the situation and he consented to it; in fact he was glad to do it; and he told me he had some stages and would like to get into the first division where it was settled up, plenty of forage and several towns, and it is a good country for staging. This fight had got to be very bitter and Mr. Kerens and Col. Chidester had nothing to do with each other. They never had an interview on the subject, never talked with each other at all, those days, and I only saw Mr. Kerens as a witness in the matter—he was a witness to my signature—but he was not present when Col. Roots and Chidester signed it. I made the arrangements; they said they would go in with me; they decided to go in for a period of three months, but that then I must look elsewhere if I took Chidester in; I mean Mr. Kerens said that. That was the way the contract was made. Befor' the three months was out the service on this route was increased and it kept drifting along until in December and a permenent contract was made. Cil. Chidester was the contractor, but he had sublet all west of Concho, and he and I carried that part from Fort Worth to Concho. He had no interest whatever beyond Concho. He and I were in partnership out there for some time, but after eighteen months or two years I bought him out. The eastern end of the route was not at Fort Worth then; it had gone to Weatherford. As the railroad kept building out they changed our terminous continuously. The terminus was finally at Abilene, and then we had to go right south to Concho. This was done for the purpose of reaching those forts out there. I believe that is just about as near as I can give the history of the case. We were very clise pressed and had to get help to carry out the contract, or he would be sure to be declared a failing contractor, and Col. Chidester realized the situation as much as his secureties did.

Q. I noticed by the terms of this contract you nominate yourself as part' of the first part, for the sureties?

296 A. Yes, sir.

Q. State whether or not you contracted as surety for Col. Chidester.

A. I contracted as surety; that is, I represented the sureties; I was trying to protect ourselves.

Q. State whether or not you made any other contract whatever for the temporary carrying of that mail or whether it was made between Chidester and Roots, growing out of this contract.

A. No; there was no other that I recollect of.

Cross-examined by J. E. WILLIAMS, special counsel for plaintiff:

Q. The paper that you hold in your hands purports to be a subcontract, don't it?

A. No, sir; we pretended to be the head of the contern.

Q. Read the beginning of it and see if it is not a subcontract. It is not denominated a contract with subcontractor.

A. Oh, that is an old blank I borrowed. We had no form, but I had an idea of what we wanted and I walked six squares to get that blank. We didn't go int' any regular subcontractiog, but just used this form I had borrowed.

Q. As a matter of fact, this contract made by you and Mr. Chidester purported to be a contract whereby you as surety sublet to yourself and John T. Chidester a portion of that route?

A. Well, sir, I was not a lawyer. It was not intended as a subcontract; the use of that draft was to get at what we desired. He was to get eighteen thousand dollars a year and I was to get the use of the twenty-four thousand; we were partners and that was our agreement.

Q. How did it come about that you made this contract for the carrying of the mail between Fort Worth and Concho?

297 A. We found that we were in this sort of a situation: We had to do something, and we made arrangements to sublet all west of Concho and then I went in with him and we took the first division.

Q. You made a contract by which the part of the route between Fort Worth and Concho was sublet to you?

A. Yes, sir.

Q. How comes it that you denominate yourself surety when in point of fact you were acting as principal?

A. I don't know. That was not written by a lawyer. Just a memorandum made up here as the contract between us, and the blank we used was a printed blank, and we used that sort of a thing; there was no dispute between us, and it was all satisfactory. I represented the sureties in making the contract with Chidester and myself.

Q. With whom did you make this arrangement tnat you have spoken of in your direct examination to help you out in this matter?

A. We made it directly with Colonel Roots and R. C. Kerens.

Q. Under that arrangement what occurred?

A. Well, a contract was made for three months, first?

Q. When was that contract made?

A. That was made the same week this was made; may be on the same day.

Q. Was that three months after the service had commenced, or was it the three months commencing with the first of the service?

A. Yes, sir; the first quarter.

Q. As a matter of fact, Major Adams, when that agreement was made, was it not understood between you and those gentlemen that this

298 entire contract was to be taken out of the hands of Chidester, and that he was not to have any connection with it.

A. Yes, for the whole line west of Concho. Before this thing was made it was the positive agreement that he should have nothing to do with it, or thew would leave it to Chidester and myself entirely.

Q. I will ask you as a matter of fact if the agreement made between you and Col. Roots and the parties with him was not that the whole contract should be taken off Chidester's hands?

A. I reply again, it was, except for the three months.

Q. Didn't that deal simply let Chidester out?

A. Yes; it let him out beyond Concho.

Q. Was it not an agreement in effect that you, as surety for Chidester, and these gentlemen for themselves, were to take that contract, and Chidester was to be put out, after carrying it through for three months?

A. There was nothing agreed to except they were to carry it three

months, and then they wanted to leave Chidester and myself to go by the board. Afterwards we made an agreement with them to continue.

Q. That was not included in the original contract?

A. No; we knew we had to fight our own way or drop it.

Q. We are now speaking about the first agreement; was not that made to cover the entire contract?

A. They never agreed but to go west of Concho, and that was only for three months.

Q. Major Adams, is it not a fact that subsequent to having made this agreement that Mr. Chidester came and asked you to make some arrangements by which he and his boys could get something to do, and wasn't this contract on this end of the route fixed up for that purpose?

299 A. That was before anything was done, that he told he must have something on this end that he could manage; it was after we saw we couldn't get the service carried for the money.

Q. Did you go to the other sureties and speak to them on this subject?

A. I did, especially to Fordyce, and said we had done something we ought not to have done.

Q. And it was after you had done this that Mr. Chidester asked you to make that arrangement?

A. I continue to tell you it was before any arrangement.

Q. It was before that arrangement with Col. Roots?

A. Yes, sir.

Q. After Col. Chidester thought that he would fail to comply with the original contract, then he came?

A. He did't come; we were rooming together.

Q. That he approached you on that subject?

A. Yes, sir.

Q. At the time the arrangement was made between you and Col. Roots by which he agreed to see you through in the performance of this contract was anything ever said in reference to expediting this service?

A. Well, I don't know exactly what was said, whether anything was said at that time in regard to it. I know I was in a good deal of trouble myself about the matter. I would have been very glad indeed to have given it to them for nothing. I don't know whether anything was said at that time or not.

Q. Is it not a fact that they agreed to see you through this matter for three months, as you have stated, and was it nit a part of the

300 understanding that at the end of three months, if the service was expedited, that they would make a permanent arrrangement?

A. I don't know; I can't say positively; as I have already said, they were to see me through for three months, and that they would decide by that time whether they would go any further.

Q. Was it not a part of the understanding that you were all to make an effort on the question of the expedition of this service?

A. I don't know; I can't say that.

Q. Does the contract which you hold in your hand provide for certain contingencies, as increase of pay, on this route in case of expedition?

A. Yes, sir; that was to provide for the service in case it was increased.

Q. Was it not expected that it would be expedited at the time that contract was made?

A. I am not so clear as to that; it was expected in all probability there would be an increase.

Q. Had not Chidester at that time applied for this expedition?

A. He could not have; this thing was made in April and the service didn't begin until July.

Q. How did you come to put that in the contract?

A. Those were the days of getting expedited service, and hardly a contract was made that didn't provide for that, particularly on big and important routes.

Q. Who drew up that contract? Did you?

A. No, sir; it don't look like my handwriting.

Q. But it was prepared at your suggestion; at whose instance?

A. Colonel Chidester and myself; I have no idea whose the handwriting is.

301 Q. Do you remember when you had the first conversation with Col. Roots? Was any one there engaged with him in reference to this expedition?

A. No; I couldn't tell about that. I know the time I had the talk with him in regard to making this arrangement about seeing us through at the start.

Q. Do you know who composed the Texas and California Stage Company?

A. No, sir; I don't know. I know that Col. Kerens was in it and Col. Roots.

Q. Col. Roots was a member of that company, was he not?

Yes; I think he was; I would not be certain he was; I don't know anything about it; that was my impression.

Q. What was the object in providing in that contract for the carrying of the officers of that company and others as dead heads?

A. That was merely courtesy; we took dead-head the officers of the Texas Pacific Railroad in the same way, and they passed our men. It was mere courtesy of one line to the other. And we always carried all your post-office officials. They all did that.

Q. Why was it that one of the parties to this contract seems to be the treasurer of the Texas and California Stage Company?

A. Well, him or such party as he might direct. This says treasurer of the Texas and California Stage Company, or in lieu of him such person as the party of the first part may direct. It was no permanent thing making the treasurer of that company a party.

Q. Afterwards, in December, you made permanent the arrangements you had previously had with Col. Roots and others?

A. Roots and Mr. Kerens were the only two.

Q. And that arrangement was afterwards made permanent?

302 A. Yes, sir.

Q. That was the contract of December?

A. Yes, I see it was; I didn't know it was so late, I thought it was in October or along there.

Q. Then this written contract of December was simply reducing to writing and making permanent the contract that had existed from the beginning?

A. No; it was executed at the end of the temporary contract, everything was temporary; I cant' say what was the idea.

Q. But it was the same contract that was embodied in the temporary agreement?

A. Yes, sir.

Q. And was simply, then, to make permanent the temporary agreement?

A. Yes; that was all.

Q. To whom did you refer in saying they had stock from Concho to Yuma?

A. I meant Mr. Kerens and Col. Roots.

Q. The same parties with whom you made this agreement?

A. A. R. C. Kerens and Logan H. Roots; they had been carrying the mail and had their stock there.

Q. Over that portion of the route west of Concho?

A. Yes, sir; a man by the name of Johnson was on the route from Concho to Fort Uorth.

Q. During all the time that this fight was being made Chidester insisted upon getting the contract, did he not?

A. Yes, sir.

Q. Did you not insist to the same effect?

A. Yes; worked all I could for it. But I got more than I wanted
303 when I got it.

Q. Was not an appeal taken from the letting of this contract?

A. Yes, sir; I don't know whether you would call it an appeal or not.

The COURT. Never mind about that; that has nothing to do with this case.

Direct examination resumed:

Q. You stated in your cross-examination that you would have turned over to Roots and Kerens the contract at $134,000?

A. Yes, sir; I offered it to them.

Q. Did they accept it?

A. They did not, they declined.

Q. Can you state why?

A. Said they couldn't carry it at that.

Q. I understood you to say in the course of your cross-examination that there was some ill feeling between Chidester and Kerens, and it was for that reason Kerens would not enter into a contract with Chidester?

A. Yes, sir; you see it was all brought about in some way in the fight made before the Postmaster-General.

Q. Is that the reason you contracted as a surety?

A. Yes, sir; R. C. Kerens objected to the contract because of ill-feeling existing between them at that time.

Q. And that is the reason you made the contract and thereby became personally responsible?

A. Yes, sir?

304 Cross-examination resumed:

Q. In the contract made between you and Col. Chidester the compensation that you received before the expedition service was $18,000 per year, and the sum of $6,000 additional was the sum you were to re-

ceive after the expedition. Were these figures the amounts asked by you and Chidester, or was that the amount offered by the other party?

A. It was what Col. Chidester agreed to take it for on account of the country he had to pass through.

Q. They were your own figures?

A. Yes, sir.

W. M. GRIFFITH, a witness on the part of the defendants, being sworn, testified as follows:

Examined by JOHN MCCLURE, attorney for defendants:

Question. State what connection, if any, you had in the transportation of the mail from July 1st, 1878, until June 30th, 1882, on the route between Yuma and Fort Worth, and to what extent?

Answer. I was superintendent and also subcontractor on the west end of the route between Yuma and Tucson.

Q. As superintendent on the line and subcontractor, state how frequently you were over the line?

A. Well, I was on the line all my time. When not otherwise occupied during that time I went over it very often—every few days.

Q. Who purchased the stock and stocked that line?

305 A. I purchased the stock or directed the purchase.

Q. State how many animals were on the division between Yuma and Tucson after the 15th day of August?

A. Well, it ranged from 244 to 260 or 70 head, along there, varying at times; never less than 244.

Q. State how many men?

A. 65 to 70.

Q. Do you know Wm. Skinner?

A. I do.

Q. Was he driving between Florence and Tucson during the latter half of the year 1878 for you?

A. He was not.

Q. State, if you know, where he was during that period of time?

A. Taking care of stock at Canyon station.

Q. For you?

A. Yes, sir.

Q. I believe you connected at Yuma with the Southern Pacific Railroad Company?

A. Yes, sir.

Q. State about what amount of mail left there daily, when you made regular connection with the train. State the size, weight, and bulk, as near as you can, that is, including what was called merchandise mail.

A. Well, sir, three or four hundred pounds, and up to as high as twelve hundred pounds, and several times more.

Q. State whether or not the Southern Pacific Railroad always made connections that you might take daily what came in over the railroad.

A. No; they did not.

306 Q. What was the result in case of failure to make connections?

A. Double mail.

State whether or not that frequently occurred?

A. Quite frequently, and does occur yet, quite often.

Q. Can you state about what the cost was in carrying the mail over that division?

(Objected to; objected sustained; exception taken.)

Cross-examination, by J. W. ROUSE, U. S. att'y, for plaintiff:

Q. When did you first subcontract that part of the line?

A. I don't remember the date.

Q. Was you on that line before you made the subcontract under Col. Chidester?

A. I was.

Q. Then you were on that part of the line immediately before the bidding for that contract?

A. I had been there for four years, over this line.

Q. Was you there when this contract was let to Chidester and just continued on?

A. No, I was on the line between Yuma and San Diego, which covered the same line, Yuma to Tucson being another division, which we took on the 1st of July, 1878.

Q. Had you been travelling on that line prior to July 1st, 1878?

A. Yes, sir; some.

Q. You had no contract?

A. No, sir.

Q. And you had no stock on that line prior to '78?

A. No, sir.

307 Q. With whom did you contract in subletting this part of the route?

A. Mr. Kerens was associated with me, and Mr. Kerens made the contract.

Q. It was Kerens & Griffith; I understand it now. When did Dan C. Stephens go on that route—you know Dan?

A. Yes; I have met him; I don't remember the exact date.

Q. Estimate as near as you can, Mr. Griffith.

A. It was in '78; it seems to me it was in August or September, '78. It might have been earlier. I can't remember what month. In August or September, I think August, but I can't be positive as to that.

Q. Is it not a fact that he didn't go there until after the service was expedited?

A. He came, as near *as near* as I can recollect, before, or just after; I never gave it a thought.

Q. Haven't you testified in this case before?

A. Yes, sir.

Q. What is the distance from Yuma to Tucson?

A. Well, I believe the Department calls it 266 miles, as near as I can remember. It is guess-work. The road has never been measured, to my knowledge.

Q. Was Skinner working on that part of your line while you were in charge of it?

A. Yes, sir; he was employed at different points.

Q. Was Skinner at any time driving for you?

A. Yes, sir.

Q. Now, is it not a fact that Dan C. Stephens discharged him while he was working on the line?

A. I think he was discharged at Canyon Station.

Q. Now, after he was discharged at Canyon Station, did he work any more for you?

308 A. Not that I remember of.

Q. That was eight or nine years ago. How can you remember so exactly? You state there were 65 to 70 men on the line. With that number of men how can you remember who it was you were having discharge certain work at a certain time?

A. I don't state as to the exact time.

Q. How can you come within two or three months of the time?

A. I have thought the matter over and hunted up the evidence.

Q. What interest did you have in hunting up evidence to contradict Wm. Skinner?

A. Because I think he was mistaken.

Q. What interest was it to you to find if he was mistaken?

A. None, particularly. To satisfy myself as to its falsity. I mean of course that he was mistaken as to the time.

Q. I will ask you, Mr. Griffifth, about the time Mr. Williams and Judge McClure were out in that country and in Texas, last year. I will ask if you didn't manifest a good deal of interest in going from place to place where they were in Texas?

A. I didn't go with them.

Q. Did you not act for the defendants; go along for the purpose of bringing in witnesses at the various points?

A. I don't remember of bringing witnesses.

Q. Did you not see any witnesses and request them to come and give their evidence?

A. I gave them witnesses' names, of course. I knew the men we had employed in that section.

Q. Didn't you see a number of witnesses in regard to what they would testify to?

309 A. No, sir; not in regard to what they would testify to. I did not do that kind of business.

Q. How long were you with Judge McClure and Mr. Williams?

A. I made the trip to San Francisco and back to Tombstone.

Judge McCLURE. And you had Mr. Childs, too. [To U. S. district att'y.]

Q. What object had you in going with Judge McClure?

A. I went along to assist him in finding witnesses.

Q. You did not assist Mr. Williams?

A. No, sir. I don't know but I would, if he had asked me. I would have had no objection to give him the name of any man who had been in my employ.

Q. As a matter of fact Mr. Williams never made any such request of you?

The COURT. It is evident that the witness was at that time simply discharging an honorable duty to his associates.

Defendants then read in evidence the depositions of E. Q. Shaw and 6n. C. Christianson.

E. O. SHAW, being duly sworn, deposes and states:

Q. State your name, age, residence, and occupation.

A. E. O. Shaw; thirty-six; Tucson; miner.

Q. In what business were you engaged during the year 1878?

A. I was freighting from Yuma, A. T., to Tucson.

Q. Do you know Wm. Skinner?

A. I do.

310 Q. State, if you know, where he was in the latter half of the year 1878, and what he was doing?

A. He was at Cañon Station tending stage stock.

Q. How do you know he was there?

A. I saw him there. I was freighting once or twice a month by there.

Cross-examination:

Q. Did Wm. Skinner ever drive stage on the route between Tucson and Yuma; and if so, when and where?

A. I think he did previous to 1878.

Q. How long was you engaged in freighting between Yuma and Tucson?

A. About two years from the time the railroad ended in Yuma until it reached Casa Grand*a*.

Q. When did Skinner go to Cañon Station?

A. I don't know the date.

Q. Are you positive in your assertion made in your examination-in-chief that he was there in the latter half of the year 1878?

A. Yes, sir.

Q. How is it that you are positive of this fact when you do not know when he went there?

A. Because I was passing there frequently and saw him there.

Q. Might it not have been later than the year 1878 when you first saw him at Cañon Station?

A. No, sir.

Q. Why do you make this statement?

A. I stated before; that year I was passing there and saw him there.

Q. How long did he remain there?

A. I am not positive.

311 Q. Are you testifying from mere recollection as to dates?

A. Yes, sir.

Q. For whom were you freighting during the period you mention?

A. For Fish & Shaw. I was a member of the firm.

And further the deponent saith not.

E. O. SHAW.

Subscribed and sworn to before me this 19th day of April, A. D. 1886.

W. S. READ,
Notary Public, Pima County, Arizona Territory.

C. CHRISTIANSON, being duly sworn, deposes and states:

Q. State your name, age, residence, and occupation.

A. Thirty-six years old; keeping a livery stable; Tucson, A. T., and my name is C. Christienson.

Q. In what business were you engaged in the latter half of the year 1878?

A. I was driving team for Mr. Shaw and Mr. Fish between Tucson and Yuma.

Q. Do you know Wm. Skinner?

A. Yes, sir.

Q. State, if you know, where he was in the latter half of the year 1878, and what he was doing.

A. Tending stage stock at Cañon Station.

Q. How do you know he was there?

A. I saw him working there.

Q. How frequently did you see him there?

A. Twice a month.

312 Cross-examination:

Q. How do you know that it was in 1878 that Wm. Skinner was keeping stock at Cañon Station?

A. I just came down from California and I know it from that.

Q. How do you know that it was in 1878 that you came down from California?

A. I can count up how many years I have been down there.

Q. Did you go to driving freight as soon as you came from California?

A. Yes, sir; a few days after.

Q. Did you know Wm. Skinner then?

A. No, sir; I saw him first at Cañon Station.

Q. What time in the year 1878 did you commence driving freight?

A. September.

Q. When did you first see Wm. Skinner at Cañon Station?

A. The latter part of September or the first part of October.

Q. How long did you continue to drive freight?

A. Seven or eight months.

And further the deponent saith not.

C. CHRISTENSEN.

Subscribed and sworn to before me this 19th day of April, A. D. 1886.

W. S. READ,
Notary Public, Pima Co., Arizona Territory.

The time, form, certificate, and mode of transmission of this deposition is waived; all other legal exceptions are saved; and with this agreement this deposition may be read in evidence in the case of the United States against John T. Chidester and Logan H. Roots, now pending in the circuit
313 court of the United States for the eastern district of Arkansas.

JOHN MCCLURE,
For Defendants.
EH. J. WILLIAMS,
For Plaintiff.

ORLANDO R. SMITH, a witness on the part of the defendants, being sworn, testified as follows:

Examined by JOHN MCCLURE, attorney for defendants:

Question. In what business are you engaged, and what position do you hold?

Answer. I am in the freighting and mercantile business. I am agent

for the California Powder Works, also resident director for the Southern Pacific Railroad and agent for two or three mining companies.

Q. State in what employment you were during the years 1878, '9, '80, '81, and '82, and where?

A. I was managing the stage line for J. B. Price between Mesilla, New Mexico, and Tucson, Arizona.

Q. At what time did you commence such management?

A. I think I took the entire management about the first of October, '78. I had been on the line previous to that time some.

Q. Do you recollect who you succeeded?

A. W. N. A. Norton.

Q. State what amount of stock you employed on the line between Mesilla and Tucson and the number of men?

A. We had from 250 to 270 head of stock and from 50 to 70 men employed.

Q. Did you hear the deposition of a man by the name of Samuel Lee read here?

314 A. I did.

Q. In that it is stated that your stock was attached; state what you know about that?

A. I know nothing of it whatever.

Q. Was the stock that you had control of ever attached?

A. No, sir; not the stock that I had control of.

Q. State what service or employment he had or what connection he had, if any, on this route?

A. It is my recollection that he kept a station at Point of Mountain perhaps half, and still it may have been for the entire year, of '78, and then, I think, he sold out, and I don't recollect of seeing him back on the line after that, except for perhaps one month, driving, I think; it is my recollection he drove for about one month.

Q. Where from and to?

A. I think he drove from Point of Mountain station probably to San Simon station; it is so long ago I can scarcely recollect these facts; San Simon is the second station on the line from Point of Mountain east.

Q. He says he drove from Benson to Fort Bowie; state if he was in your employ at that time?

No, sir; that was a long time after he drove for me.

Q. In whose employ was he at that time?

A. I don't know in whose employ; just after the railroad reached Wilcox, I think from Wilcox to Bowie, we did have a man perform some service there.

Q. Side service?

A. Yes, sir.

Q. Where was the main service being performed at that time?

315 A. I think we connected with the railroad at San Simon, or it might have been at Fort Bowie station (it is now called a station).

Q. Do you know James Steel?

A. I have heard of him; I never saw him.

Q. He states that he kept a station at Fort McKenzie, and that the stock was kept with him there; state what, if anything, you know about it?

A. Mr. Norton previous to October kept his stock at McKenzie and at

the Point of Mountain. When I took charge of the road I changed that; removed the stock and kept them at my own stations. I never had any stomk at McKenzie, I know, and I don't recollect of ever meeting him in my life. I think, as I understood it at the time, he was a partner in a cattle business near Sulphur Springs, below McKenzie. I took my stock away from there almost immediately after taking charge of the line.

Q. Did you know Mattias Estrada, a Mexican?

A. Yes, I knew him.

Q. Did you hear his deposition read?

A. Yes, sir.

Q. State what, if anything, you know about his driving for you, if he did at all?

A. He may have driven for Mr. Norton previous to October; of that I am not positive. After the railroad got to Benson we had a line to Tres Alimos post-office. It was a very small line, run with a single buckboard from Benson to Tres Alimos, a distance of nine miles.

Q. How as to the through mail carried at that time?

A. We carried the through mail on stages, connecting with the railroad at Benson.

Q. And he simply drove to that side station?

316 A. Yes, sir; nine miles from Benson to Tres Alamos.

Q. Did you hear the deposition read of Mr. Henry D. Bowman?

A. Yes, sir.

Q. I want you to state now whether the mail that came to Santa Fé and which went from Santa Fé, passed through the Santa Fé office?

A. In the latter part of September I think it was, I met James B. Price, the proprietor, in Santa Fé, and I think General Adams, the inspector, and I laid before them the great difficulty of assorting all the third and fourth class matter at a way office; that it detained us so long it was utterly impossible to make the change; and General Adams, I think it was, gave instruction to the postmaster at Santa Fé to take the third and third class matter for all points west of Mesilla and separate it so that it would not be necessary for it to pass through all the intermediate offices. The mail that came to Mesilla which had been passing through that office when we made close connections, if we failed to make close connections was simply thrown into the office.

Q. And what was done with it when it got to Santa Fé going west?

A. It was put into the western bound coach.

Q. And never went into the office at all?

A. You will see Santa Fé is due north almost, and we took it from the north bound coach and put it into the western bound coach when we made connections, if we failed to make connections it was thrown into the office to wait until the coach went out again.

Q. Well now step here and look at this map. When you speak of the Santa Fé route that is this line that you made connection with, running south to Mesilla?

A. Yes, sir. [The witness explained the method of handling the mails, pointing out the line of route and stations on the map.]

317 Q. Do you know who had this contract on the Santa Fé route at that time?

A. Yes, sir; W. N. A. Norton.

Cross-examination by J. Wh. HOUSE, Uh. S. district attornew:

I understood you to state a while ago that you took charge of this line some time in October, '78; about the first?

A. Yes, sir.

Q. Now what connection had you had with that line before that?

A. I think in July, the lattter week of July, it may have been the first week of August, I was sent from Santa Fé over the line to Tucson with instructions to buy whatever stogk in my judgment was sufficient to carry the mail on the expedited schedule. I don't recollect the time; I think it was seventeen days. I went over the line without making any delay. I didn't go to Tucson, but only to Tres Alamos, 45 miles of Tucson. Well, I got to Mesilla about the 15th of August. I got a telegraphic dispatch, I think from Col. Price, dated at Jefferson City, to go over the line from Mesilla to Tucson and make an estimate according to my judgment of the number of animals that would be required to carry the mail on a seventy-two hour schedule.

Q. On a seventy-two hour schedule; that was the increased schedule?

A. Yes, the increased schedule for that part of the route.

Q. Now do you know what it was before you took charge?

A. I am not positive; I thind it was seventeen days.

Q. I mean over your part of the line before the service was expedited?

A. No, sir; I don't know that I ever had. I have heard since I came here.

Q. Never mind. What was the distance from Mesilla to Tucson?

318 A. I think the Government made it three hundred and fifty-five miles. We made a charge for passengers of three hundred and forty-five miles.

Q. Now, I understand you that before you went on the line in October you had never been over the entire line, but had only been to Tucson, or to what point East?

A. I said in July I went from Mesilla to Tres Alamos, where I helped to stock the line, but in August, after I had returned, I went clear through to Tucson.

Q. How far is it from Mesilla to Tres Alamos?

A. It must be about three hundred miles, I think; not far from that; it may be three hundred and fifteen miles about.

J. T. CHIDESTER, being called in the part of the defendants and sworn, testified as follows:

Examined by JOHN MCCLURE, attorney for defendants:

Q. You performed service between Fort Worth and Fort Concho. State how many animals you had employed upon that division.

A. At what time?

Q. After expedition.

A. I had in all about one hundred and sixty-five animals; I can't say exactly, for my son was my superintendent, but it was near that. I went over the route after the expedition and counted the stock on the road, and I had upon the road between one hundred and sixty and one hundred and sixty-five. I don't know that I counted them correct to an animal.

Q. And how many men?

319 A. I had about forty-five men.

Cross-examination by J. W. HOUSE, U. S. district attorney:

Q. Did Mr. Gallagher help stock the route?

A. He helped me buy the stock, and helped me bring them to Fort Worth, where I left him, and I myself stocked the route.

By JOHN MCCLURE:

Q. State, if you know, how long Mr. Gillis was in your employ.

A. Well, I can't recollect. He was in my employ about a month about that time. I can't recollect as to a few days.

Q. How come he to leave your service?

A. I discharged him.

By J. W. HOUSE, U. S. district attorney:

Q. You say you discharged him. Why did you discharge him, Mr. Chidester?

A. I left him on the road after I had put the stock on the road. I left him in charge of the road as assistant agent, and I had made contracts along the road. At Comanche we made our headquarters at a widow lady's that was keeping a hotel there. I came home and on my return back she reported to me that he had insulted her and treated her badly, and that I must take my men away from her house, and I removed Mr. Gillis. That is just why I discharged him.

Q. Is it not a fact that you discharged Gillis because in keeping the accounts Gillis said the account was not correct, but was wrong as against Major Adams?

A. No, sir; I never heard of that before.

Q. Is it not a fact that after he left Major Adams offered him $300 out of his own means to go to work again?

A. If he did I never heard of that offers. Major Adams can state that for himself. That is the first I ever heard of it myself.

320 C. BAIN, a witness on the part of the defendants, being sworn, testified as follows:

Examined by JOHN MCCLURE, attorney for defendants:

Q. Mr. Bain, I believe you were subcontractor between Fort Concho and Mesilla on the route from Fort Worth to Yuma?

A. Yes, sir.

Q. State, if you know, the number of men and animals that you had employed over that portion of the route in the transportation of the mail after the expedition.

A. Well, I had seventy-two men to eighty, and from three hundred to three hundred and fifty animals on the line all the time.

Cross-examination by J. W. HOUSE, U. S. district attorney:

Q. Seventy-two men and how many animals?

A. Yes, sir; and from three hundred to three hundred and fifty animals.

The COURT. 72 to 80 men?

A. Yes, sir; eighty-two at one time.

Q. That was after the service was expedited?

A. Yes, sir.

Q. Didn't you have a superintendent under you, Mr. Bain?

A. Yes, sir.

Q. Did you give this matter your personal attention? Did you stock the route and employ the men?

A. Yes, sir.

Q. If you did it yourself what was the necessity for a superintendent?

A. It was five hundred and forty miles. I couldn't superintend all that you know.

321 Q. What part of the line did you superintend personally?

A. Well, I went over the entire line to see that everything was right.

Q. When did you first take this part of the route?

A. In July, '78.

Q. Had you been running the mail over that part of the line before that?

A. No, sir.

Q. Had you been engaged in the mail service before that?

A. Yes, sir.

Q. In that immediate country?

A. San Antonia and Austin, and I also had some lines from Fort Worth west.

Q. How much did you have personal control over? What part of the line did you supervise personally?

A. I supervised the whole line.

Q. Do you pretend to state now from your memory back eight or ten years ago, the number of men and animals you had on your part of the line?

A. Yes, sir; I can count them for you.

Q. From memory?

A. Yes, sir; from memory, just what it actually took.

(By Judge McCLURE. I don't recollect the two points between which you had the contract.

A. From Fort Concho, Texas, to Mesilla, New Mexico.

Q. What was the distance between those two points?

A. About five hundred and forty miles.

322 J. P. ALEXANDER, a witness on the part of the defendants, being sworn, testified as follows:

Examined by JOHN McCLURE, attorney for defendants:

Q. Mr. Alexander, state what position, if any, you held during the years 1878, '9, '80, '81, and '82.

A. Postmaster at Fort Worth.

Q. State, as near as you can, the weight of the mail which left Fort Worth daily.

A. I should say from seven to nine hundred pounds.

Q. From 700 to 900 pounds?

A. Yes, sir.

Q. Over the Fort Worth and Yuma route?

A. That is what I mean.

Q. State what amount, if any, was included as through mail—which was not opened between Fort Worth and Concho.

Q. Well, there was a register pouch; that was the only kind that was

not opened between Fort Worth and Concho. That was called the brass-lock pouch.

Q. State the bulk of the mail, its size as to its filling the boot of the stage and the inside, and all that sort of thing.

A. Well, I have seen pretty heavy mails there, for the reason that in the winter of '78, '9, and '80—'79 and '80—the Texas Pacific Railroad run very irregularly, as the reports at the Department will show.

Q. What was the result of the irregularities?

A. That sometimes—very often—there was two mails, and I have known even three to be thrown together.

Q. What was the effect of that in filling the coach?

323 A. Of course it made it a great deal larger mail.

Q. State the condition of the coach—its capacity to carry it.

A. Well, *O* have seen the boot of the coach filled, and then have seen them throw the mail on the inside of the coach.

Q. In the inside, too?

A. In the inside of the coach; yes, sir.

Q. Were you familiar with the postal routes in Texas, at Comanche and at Concho?

A. No, sir; not much.

Q. Do you know that there were other mails aside from those that reached Fort Concho?

A. Yes; I know that.

Q. From what points?

A. From San Antonio and Austin, going west.

Q. You say there was a mail from San Antonio to Concho, and from Austin to Concho, and from Fort Worth to Concho?

A. Yes, sir.

Q. Now, do you know whether any of the mail was sent by the way of San Antonio*to* to Concho that would, in its natural course, go over the Fort Worth–Yuma route, or any portion of it? And if so, state what.

A. Well, I will give you an idea of it this way: The mail at San Antonio that went west, I think, came by the Texas Pacific, went west by the Yuma line, and of course the same mail from Fort Davis went on that line, and the same from El Paso. Of course, that was with the same mail that went from Fort Concho and Quitman. I think that the Louisiana mail and the mail for the Eastern and Southern States were all thrown into San Antonio, to go by that route.

324 Cross-examination by J. W. HOUSE, U. S. district attorney:

Q. What was the size of the town of Fort Worth at that time?

A. In '78 and '9, I think well on to eight or nine thousand inhabitants; I don't remember exactly.

Q. How many clerks and deputy clerks did you have in the post-office at that time?

A. I believe five besides myself.

Q. Now, Mr. Alexander, in point of fact, is it not true that the various clerks and deputies in your office did the handling of the mail and putting up of the mail, and that you had nothing to do with it but merely to supervise it?

A. I was there; I don't think I distributed any mail, but I was there and looked after it generally.

Q. Do you recollect that some time in July, just after this service was expedited, about the time they give that big blow-out, seeing Col. Chidester and Col. Roots?

A. Yes, I saw them.

Q. I will ask you if you received a thousand dollars from Col. Chidester or Col. Roots for the purpose of aiding them in procuring the expedition of this route?

A. How is that?

Q. Did you receive a thousand dollars, or any amount, from Logan H. Roots, or Chidester and Roots, John T. Chidester, jr., or John T. Chidester, sr., to be used for the purpose of aiding them to have this service expedited?

A. No, sir; I never did. It is the first time I ever heard it intimated. That affair, so far as I could say, was gotten up by the
325 citizens of Fort Worth—a sort of a dinner or whatever you may call it.

The defendant then read in evidence the depositions of Dan. Taylor, C. H. Merritt, and David M. Key, as follows:

STATE OF TEXAS, *County of Bexar, ss*:

DAN. TAYLOR, being sworn, says:

My residence is at San Antonio, Texas, I am now engaged in carrying mail and the stage business. I have been in the stage business and carrying the mails for thirty years. I was employed by C. Bain & Co. to take charge of the service on that portion of the mail route known as the Fort Worth and Yuma route, between Fort Concho and Fort Davis. At that time Bain & Co. were running a daily line of stages from San Antonio to Fredericksburg and from Austin to Fredericksburg and thence on to Fort Concho. I can not now give the exact date at which I took charge of the road from Fort Concho to Fort Davis, but think it was in August, 1880, and I continued in charge until service was discontinued, because of the completion of the railroad. I employed sixteen drivers, two water-wagons, used on the road between Fort Concho and Fort Davis. I had fourteen men employed as station-keepers. There were two agents, myself and E. Bates, and one blacksmith; total, thirty-five men. I had one hundred and seventy-seven head of animals. This included the entire force of animals and men used on the road from Fort Concho to Fort Davis, in carrying the mail and doing the passenger and express business. Four animals were used to a coach on alternate days, and two animals to a buckboard the balance of the time. A portion of the time we carried a guard composed of Government soldiers.

326 We carried two soldiers at a time as a rule. These troops were furnished whenever we thought it necessary to have them to protect the mails or the lives of passengers or our stock. We could also have these soldiers at the stations to protect our stock and property whenever we called upon the commanders of posts for them. I was the person who made the application for them on behalf of the company. The Government furnished these men with guns, and we also had rations, which they could eat if they wanted. There was but one post-office intermediate; that was Fort Stockton. I hired and discharged the men. I paid from twenty to forty dollars per month for drivers, and station keepers about the same.

The average weight of the mail was about one hundred and fifty pounds per day. The rate of speed was six miles per hour. An animal will travel with a light load at the rate of five miles per hour for three hours each day and stand it right along.

DAN. TAYLOR.

Signed in presence of—
H. P. HOWARD.

Subscribed in my presence and sworn to before me at San Antonio, Texas, on this 7th day of March, 1886.

S. P. CHILD,
P. O. Inspector.

It is agreed that this statement may be read in evidence in the case of the United States v. John T. Chidester et al., pending in the circuit court of the United States for the eastern district of Arkansas, as the deposition of said Taylor.

JOHN MCCLURE.
Att'y for Defendants.
J. E. WILLIAMS,
Att'y for Plaintiffs.

327 C. H. MERRITT, a witness for the defendants, being first duly sworn, deposes and says:

Int. 1st. State your name, residence, age, and occupation?

Ans. 1st. Charles H. Merritt; San Antonio, Texas; sixty-two years of age; flour-mill owner.

Int. 2nd. State what, if anything, you had to do with carrying the U.e S. mails between Fort Concho and Mesilla, and how you came to be connected with it, and at what time your connection commenced and when it ceased?

Ans. 2nd. I was the administrator of the estate of F. C. Taylor, one of the partners of the firm of C. Bain & Co., and after the settlement of Taylor's estate as attorney in fact for C. Bain I had the entire management of the finances of the line, and particularly superintended the working of the line; my connection with the line as said administrator commenced early in July, 1879, and ceased about the latter part of December, 1881.

Int. 3rd. State if in the course of your duties as administrator and as attorney in fact for C. Bain you were at Fort Concho frequently?

Ans. 3. I was frequently at Fort Concho, and remained there as much as six and eight weeks at a time.

Int. 4th. State if during the time you were so there you saw the mails destined for Mesilla and intermediate points, and if so, state the size and weight of the mail, and in what manner of vehicle it was carried?

Ans. 4th. I repeatedly saw the mail placed in the vehicle, which vehicle consisted of four-horse coaches, two-horse jerkeys, and two-horse
328 buckboards; the coaches travelled every other day; I could not give an idea of the weight of the mail; it varied in bulk; I have seen the time it filled the front and a portion of the rear boot of the stage, and would fill the buckboard or jerkey; these were the bulkiest mails I saw.

Int. 5. State, if you can, the number of men and animals which you had in carrying the mails from Comanche to Mesilla?

Ans. 5. My recollection of the number of men, including drivers, hostlers, station-keepers, water, forage, and supply haulers, in all, made about seventy-five or eighty men and women altogether who were carried on the pay-rolls, and according to my recollection there were about three hundred and forty or fifty animals in the supply camp. The road agents would know more about the number than myself. I required reports to be made to me, and I think I have some of them now, or I may have some of them.

Cross-examination:

X Int. 1. Did you not do a general passenger and express business over this route, and was not such passenger and express matter carried in the same vehicle with the mail?

X Ans. 1. Yes, sir.

X Int. 2nd. Where were you residing and where did you make your headquarters at the time of your connection with this route?

X Ans. 2nd. My residence was always at San Antonio, but the general affairs of the company were for the first twenty-one months of my connection with it at Concho mail station. After this the offices were at San Antonio and my business necessitated my going to Concho.

X Int. 3rd. Were you not engaged in some other business besides acting as administrator of Taylor and attorney-in-fact for Bain during the period you mention?

329 X Ans. 3rd. Yes; for a portion of the time, say twenty-two months, I was engaged in the mercantile business on Commerce street, in the city of San Antonio. After that time I gave my entire attention to the business of C. Bain & Co. and to my own private business.

X Int. 4th. Did the mails that you received at Concho increase materially in weight or bulk at or after leaving Concho?

X Ans. 4th. After leaving Concho I could have no knowledge of that. It was one hundred and sixty or seventy miles to the nearest post-office going west. The mail which went from Concho included that which came from San Antonio as well as that which came from Fort Worth. There was a great deal of merchandise carried in the mails from Concho west.

X Int. 5th. Did not C. Bain & Co. during the period you were connected with them run and operate other mail routes in and out of Fort Concho?

X Ans. 5th. Yes; I think they ran a route from San Antonio and Austin to Fort Concho, connecting at Fredricksburg.

X Int. 6th. Havi you obtained any information concerning matters to which you have testified from C. Bain or any one else, or is your testimony based on your own recollection?

X Ans. 6th. Mr. Bain and myself have spoken about the number of men and animals and figured it up together some months ago, before he went to Little Rock. The balance of my testimony is from the best of my recollection, which I must say is not the best, but I think is correct in this statement.

X Int. 7th. Was this conversation between yourself and Mr. Bain had with a view of either of your giving evidence in this case?

330 X Ans. 7th. At the time of the conversation, I had never heard of the case, and had no idea I would be called on even in this investigation.

X Int. 8th. Did you know at the time of this conversation that Mr. Bain was expecting to give his testimony in a case pending against the contractors of this route?

X Ans. 8th. Yes; I knew at the time that he was preparing to go to Little Rock.

X Int. 9th. Was the estimate at that time by you and Mr. Bain concerning the number of men and animals on the route, deriver from any books or documents in possession of you; and if so, where are those books and documents?

X Ans. 9th. The estimate you speak of was derived from the personal observation of Mr. Bain in riding up and down the route, and from my recollection of the reports made to me by route agents. We had no books or documents at the conversation.

X Int. 10th. Did you not also have a road agent on the Austin and San Antonio and Concho route whose reports were likewise filed with you?

X Ans. 10th. We had one agent from San Antonio to Concho.

Re-direct examination:

Int. 1. Who kept the accounts received and disbursed the money arising from the performance of the service between Concho and Mesilla after your appointment as the administrator of Taylor up to the discontinuance of the service?

Ans. 1st. The accounts were kept by a book-keeper under my instructions, and the money was received and disbursed by myself and my agents.

331 Int. 2nd. In the course of your cross-examination you have stated that you were in the mercantile business at San Antonio for a period of about twenty-two months. State whether the mercantile business received your entire personal attention during the period stated, and if not, state to what your personal attention and time was given.

Ans. 2nd. The first year of my connection with the line half or more than half of my time was taken up with the line, and from a third to a half of it the residue of the time, until I closed up my mercantile business, and then I devoted my whole attention to the line and to closing my private business.

Int. 3. In the course of yonr cross-examination you have stated that you carried passengers and express matter in the same vehicle with the mail; state if this was a daily occurrence.

Ans. 3rd. Yes, sir.

Int. 4th. Were there not days on which the mail on jerkeys and buckboards was of such bulk that neither passengers or express matter could be married?

Ans. 4th. We left off freight and express from the vehicles, but very rarely a passenger was ever left. The buckboards could only carry one passenger, the jerkeys three. I do not remember of a passenger being left at any time.

Re-cross:

Int. 1st. Was not the leaving of express matter and freight off of the coaches, when it was left, due either to the passengers you were carrying or to the quantity of express and freight?

Ans. 1. The leaving of the express was due to the coach being loaded with express, freight, mail, and passengers to its full capacity. We put in the mail first sometimes, and sometimes we put it in last, know-
332 ing what it would be.

And further deponent saith not.

C. H. MERRITT.

Sworn to and subscribed before me, at San Antonio, Texas, this 27th day of April, 1886.

[SEAL.]

A. S. CHEVALIER,
Notary Public Bekar Co., Tekas.

The time, form, certificate, and mode of transmission for this deposition is waived. All other legal exceptions are saved, and subject to this agreement this deposition may be used in evidence in the case of the U. S. versus John T. Chidester et al. pending in the circuit court of the U. S. for the eastern district of Arkansas.

JOHN MCCLURE,
Att'y for Defendants.
J. E. WILLIAMS,
Att'y for Plaintiff.

* * * * * * *

[Key.]

Present: On behalf of John T. Chidester and Logan H. Roots, John McClure; and on behalf of the United States, District Attorney J. W. House, and J. E. Williams, special district attorney.

DAVID M. KEY, being by me first duly sworn, deposes as follows:

Examination-in-chief, by JOHN MCCLURE:

Question. State your name, residence, and present occupation.

Answer. My name is David M. Key; residence, Chattanooga, Tennessee, and am the district judge of the United States courts for the
333 middle and eastern districts of Tennessee.

Q. In what capacity were you employed during the years 1878 and '9?

I was Postmaster-General of the United States from March, 1877, to the latter part of August, 1880.

Q. In the early part of 1878 route No. 31454 from Fort Worth, Texas, to Yuma, in the Territory of Arizona, was awarded to John T. Chidester. State what you know in relation to said award.

A. Well, the award on that route was a matter upon which I acted myself. Those things were usually attended to by the Second Assistant Postmaster-General. But this was the longest star route in the country, and for some reason or other he preferred I should act upon it. A good many bids were made for it in the letting of that year, and amongst the others was that of Chidester. His was the lowest bid, and the route was awarded to him for that reason. Quite a controversy arose among the bidders over that route, as it was the longest one and a desirable route, and all the other bidders nearly were trying to defeat Chidester's bid by raising objections to it, upon which I had to act, and I held their objections not vital, and awarded the route to him, as he was the lowest bidder.

Q. It seems that expedition was ordered upon that route some time after the contract had been entered into, say in the early part of August. State what you know about how that order was procured and by whom it was made.

A. I believed that at the time the contract was awarded—the original contract—the compensation was too low, and I endeavored to get Chidester to surrender his bid and let us re-advertise it, but he would not do it, and I told him that he shouldn't have expedition, and I meant that he
334 should not have it. But in 1878 things all over the country took something of a boom. Times had been hard. They were opening up the country all along this line. They were building a railroad, since completed, at both ends, one at the Arizona end and the other at the Texas end of this route, to meet each other. And there arose a clamor all the way froc California into Texas, from the business men, members of Congress, and everybody else, demanding expedition. They said the time was too slow, and I concluded it was my duty to expedite it, notwithstanding my threat to Chidester about it. .I thought that the public interest required that it should be expedited, and I made the order of expedition, expediting it from a schedule of seventeen days to thirteen days, shortening the time four days.

Q. In makin' the order fixing the compensation for the expedited service how did you arrive at the sum of $165,000 per annum as the amount that ought to be paid for the expedited service?

A. There was no method prescribed, or was not at that time, by the law, by which the cost of such things should be ascertained. It was a matter left largely to the discretion of the Postmaster-General and such of his subordinates as acted upon the question; I mean there wes no method of determining how we should arrive at such a result. The law did not provide a method by which to arrive at the amount of compensation in such cases, but merely provided that the cost should not be greater in proportion than the number of men and horses bore to the original cost. Bst in this case there had been a great deal of controversy oyer the original bids, and the point was made, about which I was satisfied, that the contractor could not afford to do it for the amount he had bid. There was some of the most experienced contractors amongst the bidders on this route, men who had been performinn the service under previous contracts, and their bids were froc three hundred thousand dollars per annum and up-
335 wards for the original service unexpedited, and, as they had stock on the line, that induced me to believe that they had pretty good ideas about what it would cost; and I had talked with the Delegates from the Territories through whict the line passed, and had talked with other contractors, and with business men along the line, who were all urging the expedition. I found that in some places water had to be hauled thirty miles for the stock, and that feed was difficult to obtain and had to be brought froc long distances. And I made up my mind, on personal inquiry mainly, that three hundred thousand dollars, for the entire service, embracing the original and expedited service, was a good and fair contract for the Government, and I think so still. But, still, I did not like it because Chidester had not surrendered his bid when I wanted him to do so, so we could have a new advertising of it and end the controversy. I asked them to let me know in the Department what the additional cost for the expidition would

be, and they told me that, according to the methods of computing it, that it would be something over $300,000—I don't remember how much; twenty, thirty, or forty thousand dollars, perhaps, over three hundred thousand. I told them I would not allow that; I thought I had the advantage of those men somehow, and I told them that I would not allow three hundred thousand, my object being to get it as low as I could; and they finally bid a little under three hundred thousand—not much, I think. That is the manner I came to the conclusion I did.

Q. It is charged in the fourth paragraph of this complaint "That the said defendants, John T. Chidester and Logan H. Roots, by means of certain false and fraudulent representations set forth in a certain sworn statement relative to the expedition of the service of carrying the mail of the
336 United States on the route aforesaid, made and presented to the Postmaster-General on or about the 3rd day of August, 1878, did procure the said order issued on the 5th day of August, 1878, by the said Postmaster-General, thereby amending, altering, and changing said original contract as herein before set forth." State whether or not it is true, as charged, that the order for expedition was based upon any representation, fraudulent or otherwise, sworn to by Chidester or Roots, or upon any verbal representations made to you by either of them.

A. I have no recollection of ever having seen or heard of such a paper, and I have no recollection of either of them having ever made any representations to me on the subject. Now, whether the Second Assistant Postmaster-General acted upon that paper or not in making the estimate they did, I do not know and can not tell.

Q. It is further charged in paragraph four of said complaint "That the said order for additional allowance issued August 5th, 1878, was made by reason and upon the basis of the said statement made and sworn to on the 3rd day of August, 1878, by the defendant John T. Chidester, which said statement was presented, by or on behalf of both the said defendants, to the Postmaster-General." State whether or not it is true as therein alleged that the additional allowance was made by reason and upon the basis of the statement made and sworn to by Chidester on the 3rd day of August, 1878, or whether the same was ever presented to you.

A. I have already answered that I have no recollection of ever having seen or even heard of that statement. It certainly had no effect upon my mind in coming to the conclusion I did on the subject, as I arrived at that from other sources of information altogether.

Q. It is stated in the fifth paragraph of said complaint "That
337 the said representations made and presented to the Postmaster-General as aforesaid were wholly false and fraudulent in this: That it was therein alleged that to perform the service of carrying the mail on said route No. 31454, upon the then existing schedule of seventeen days, it required 92 carriers and 378 anicals, and that upon the proposed expedited schedule it would require 180 carriers and 986 animals, thereby making it appear to the Postmaster-General that the said proposed change of schedule would involve and render necessary an increase in the number of carriers and animals required to perform said service on said route of 88 carriers and 608 animals over above the number of carriers and animals required upon the original schedule, which said representations were false, as said defendants then and there well knew, and

were designed to mislead, and did mislead, the Postmaster-General." State whether it is true, as alleged in said paragraph, that the Postmaster-General was misled or in any manner controlled in ordering the expedition by the affidavit of Chidester hereinbefore referred to.

A. No; I have already answered that, I think, stating that I had no recollection of it.

Q. It is further charged in the fifth paragraph aforesaid "That by means of the said false statements made and representations made and presented to the Postmaster-General, as aforesaid, and by means of false and fraudulent vouchers presented to the Post-Office Department, the said defendants, John T. Chidester and Logan H. Roots, were paid by and received from the plaintiff a larger sum of money than they were lawfully entitled to receive for the performance of said mail service under said contract as amended, altered, and changed, as hereinbefore set forth. That the sum so received by the said defendants from this plaintiff by means of said false statements and representations contained in said sworn
338 statement and said false and fraudulent vouchers presented to the Post-Office Department for said mail service performed during the term of said contract, to wit, between the first day of July, 1878, and the thirtieth day of June, 1882, amounted in the aggregate to the sum of one hundred and seventy-four thousand and twenty dollars and forty-one cents (174,020.41), which said sum of money was paid by the plaintiff's officers to the defendants in mistake of fact, and was received by the said defendants contrary to the provisions of section 3961 of the Revised Statutes of the United States." State whether it is true as alleged in said averment, that John T. Chidester or Logan H. Roots, or either of them, received from the United States any sum of money for carrying the mail over route 31454, upon vouchers prepered by them or either of them.

A. Well, of course, I can't know how that is. The payment of those accounts were made through the Sixth Auditor's office of the Treasury Department. All that I can say is this: That it was not necessary for the' to prepare vouchers for their pay, for, by their contract, they were to be paid pro rata quarterly whatever sum they were entitled to for service faithfully performed. The postmasters along the route are expected to report delinquencies on the part of contractors in the discharge of their duties of the contract, and if they fail to do so, they are fined for such failures. The inspection office of the Bost-Office Department paun upon these things, and if a quarterly payment is to be diminished by fines, that amount is deducted from what they would be entitled to if they had fully performed the service under the contract.

Q. A draft is made out and sent to the contractor?

A. That is the custom. Very frequently contractors are there in person to receive and urge their payments through. Most generally,
339 especially with small contractors, they never know anything about it until their drafts are sent to them through the mail. The contracts say they are entitled to a quarter [that is one-fourth of the annual pay] at the end of each quarter; the contracts specify that unless deductions are made as fines for failures payments were to be made in full quarterly. Very often, however, when there are fines they insist that they were in no default, they say it was caused by reason of storms or the act of God that prevented them from making the trip, and if they make that appear the fine is remitted.

Q. What false statement, if any, or representation was made to you, as Postmaster-General, by either Roots or Chidester, that induced the payment of more money to them than they were entitled to under their contract and the law?

A. None that I know of.

Q. It is charged among other things in the third count of the complaint "that a large part of the money so paid to the said Logan H. Roots as attorney and agent for the said John T. Chidester, to wit, the sum of $174,020.41, was paid from plaintiff's treasury by the officers aforesaid by reason and in consequence of the misrepresentations of fact concerning the increase in the number of carriers and animals so required and rendered necessary by the order of the Postmaster-General expediting the schedule upon the said mail route No. 31454, as hereinbefore fully set forth; that the said Logan H. Roots well knew that said representations had been made to the Postmaster-General whereby the said Postmaster-General was induced to make the said order, he the said Roots having aided and participated in securing said order and in deceiving and misleading the Postmaster-General as aforesaid." State whether in point of fact it is true as alleged in the third count that you were induced to make the said
340 order on the representations of the said Roots, and whether he aided and participated in procuring said order, and deceiving and misleading you, as Postmaster-General, into making the order aforesaid.

A. Well, of course in the multidudinous business of the Department I could not be expected to remember all the persons I talked with and the conversations that were held. But I have no recollection in the world of Roots having mentioned the matter to me and I am very sure I was not influenced by any representations he made.

Q. You were not misled and deceived?

A. No; I am sure of that. He was not one of the men upon whom I relied in arriving at my conclusion—not one of the men that I supposed was familiar with the line of the route, or anything in regard to that matter.

Cross-examination by J. W. HOUSE, district attorney for the United States:

Question. General Key, I will ask you why did you want Chidester to surrender the contract for carrying the mail at $134,000?

Answer. I wanted him to do it because I believed he could not afford to do it at that price, and that he would break down under the contract and that the mail service would suffer by reason of his failure. It was a long route and I wanted to have the service begin on a reliable basis. I was very well satisfied from the information I got that his bid was too low, and that he could not afford to carry it at that sum, and I told him so. I thought that he would fail under it and that he would at least be reduced to the necessity of making another contract, and I preferred to make one that I was satisfied with in the beginning would insure good service.

341 Q. I believe you said in your examination-in-chief that it was the duty of the Second Assistant Postmaster-General as a rule to take charge of this kind of work?

A. Yes; as a rule; it pertained to his branch of the Department.

Q. Was there other assistants or officers, in the Department of the

Postmaster-General, who were expected to take part and act upon these contracts for service?

A. No; that was a matter that fell particularly within the province of the Second Assistant Postmaster-General's bureau. Sometimes what is called special agents, who are called inspectors now, when special information was desired were sent along the routes to ascertain something of the facts that were complained of. But they were generally after complaints had been made.

Q. Who was the Second Assistant Postmaster-General at the time of the award to Chidester and at the time of this expedition?

A. Thos. J. Brady, of Indiana. He was in the Department as Second Assistant Postmaster-General when I took charge, and I left him there when I resigned.

Q. Was the object in fixing the amount for the expedited service based upon the idea that Chidester had taken the original contract at a less price than he could afford to carry it for?

A. No, sir. There would have been no change of the contract if there had been no expedition. The object was to get a shorter schedule. That was the sole object of the expedition, and not to give him better pay, for he was not expected to get better pay. Under the law he couldn't be paid more than in proportion that the original service bore to its cost.

342 Q. You stated that you were not induced to make the expedition by any misrepresentations made by Chidester or Roots. Will you please give the names of some of the parties or persons upon whose representations you acted?

Well, I remember to have had conversations with some of the Delegates from the Territories through which the line ran; with S. B. Elkins, especially, from New Mexico. I am not sure that he was a Delegate just at that time, but he had been previously. I talked with several members of Congress and a great many others; with Senator Maxey, from Texas, and other members of the House from Texas. I talked with a good many business men who called to see me at the Department who lived along the line. And a matter that made quite an impression upon my mind was that the bids for the original service and under the original schedule—and among them were two or three bidders who had had experience in running this route, who had their stock on this route, and had been running the service before, who were bidders for it again—and their different bids, as I remember them, were over three hundred thousand dollars for the service under the original schedule. I thought they were men who knew what they were about; they had performed the service and had their stock upon it, and they could afford to do the work for as little, at least, as any one else, and I only inferred that they were only asking simply a reasonable compensation, and they estimated it at three hundred thousand and over. And I thought I was making a first-rate bargain in getting the expedited service for three hundred thousand. If I remember right, Carr, of California, who was an old contractor of experience, had the highest bid. There was nobody that thought Chidester had bid enough, except, perhaps, Chidester himself. There was one of the Territories that passed resolutions through their legislature demanding the

expidition. These men might have worked it up. They cer-
343 tainly understood, so far as I was concerned—for I had already told them—that I wouldn't expedite the service, and I meant not to do it at that time.

Q. Then do you mean to state, Judge Key, that the amount of one hundred and sixty-five thousand dollars paid for the expedition added to the one hundred and thirty-four for the original service would be a fair compensation for the service that was expected to be carried over this route after the expedition?

A. I thought it was not more than fair compensation, the two sums.

Q. In arriving at the amount which you ordered paid to the contractor for the expedited service, did you estimate the same upon the increase of men and animals rendered necessary by the expidition?

A. No, I made no calculation upon that basis. I took the calculations that came from the Second Assistant Postmaster-General's office, which was predicated upon that idea. I took that for the amount, and declined to allow it to the extent of that calculation.

Q. I will ask you if you know what representations or the character of representations that were made, or may have been made, to the Second Assistant Postmaster-General?

A. I had no knowledge thereof. I couldn't say what representations were made to him.

Q. In your duties there, judge, was not your time almost entirely occupied with matters that you considered of vital importance to the country?

A. Yes, certainly; so I thought at least. And it was unusual, and so far as I now remember that was the only route upon which I took action independently of the Second Assistant's office. They sometimes
344 appealed cases to me that I acted upon after he had acted. I asked them to advise me what the extra compensation would be under the methods pursued in that Department, and they reported what they estimated would be the allowance, as I have stated. I didn't intend to give them any advantage, if I could help it, of the Government.

Q. Do you know whether John T. Chidester executed a power of attorney to Logan H. Roots, authorizing him to collect the money coming through this contract?

A. I know nothing about that.

Q. So far as you know, then, Chidester acted for himself during the entire period of his contract?

A. Well, I could say this, that Chidester on some occasion while this original contract was under discussion, while those objections were being considered, was accompanied by Major Adams, who acted as his friend, and he may have been interested in the route; I don't remember how that is. I remember that the largest bidders and some who were making common cause against Chidester under the original award were very frequently accompanied by counsel; Chidester was not, but he was generally accompanied by Major Adams. I don't recollect of Roots ever being present. He might have been, as there was a good deal of excitement over it.

D. M. KEY.

* * * * * * *

345 CLOSED.

I certify that the for'going report of the testimony in this case is correct and true.

W. P. DAVIDSON,
Stenographer.

The court, after reviewing the facts and the law applicable to them, in conclusion, charges the jury as follows: "In conmlusion, gentlemen, I say to you that giving to all the evidence in the case the fullest probative force which you would be warranted in doing it would not authorize you, under the state of the pleadings and the law applicable to the case, to find a verdict for the plaintiff, and you will therefore return a verdict for the defendants;" to which charge and direction of the court the plaintiff, by her attorneys, at the time acccepted, and time was given to the plaintiff until the last day of this present term to prepare her bill of exceptions, and the said bill having been presented to the court is now here signed and sealed this 7th day of April, 1887.

HENRY C. CALDWELL,
District Judge.

346 UNITED STATES OF AMERICA,
Eastern District of Arkansas:

Be it remembered, That at a circuit court of the United States of America, in and for the eastern district of Arkansas, begun and holden on Monday, the 24th day of October, Anno Domini one thousand eight hundred and eighty-seven, at the United States court room, in the city of Little Rock, Arkansas, the honorable Henry C. Caldwell, district judge, presiding and holding said court, the following proceedings were had to wit: on December 8th, 1887.

UNITED STATES
v. } 4210.
JOHN T. CHIDESTER AND LOGAN H. ROOTS.

Comes the United States, by Joseph W. House, esq., district attorney, and filed herein her writ of error and citation, which are allowed and signed by the court.

Which citation is as follows:

347 *Citation.*

The United States of America, greeting: To John T. Chidester and Logan H. Roots.

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the eastern district of Arkansas, wherein the United States is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered

against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Henry C. Caldwell, judge of the district court, this 8th day of December A. D. 1887.

[SEAL.] HENRY C. CALDWELL,
U. S. District Judge.

348 I acknowledge service of the within citation for the within-named John T. Chidester. Dec. 8, 1887.

JOHN MCCLURE,
For JOHN T. CHIDESTER.

I acknowledge service of the within citation. Dec. 8, 1887.
LOGAN H. ROOTS.

349 UNITED STATES OF AMERICA,
Eastern District of Arkansas:

I, Ralph L. Goodrich, clerk of the circuit court of the United States, for the eastern district of Arkansas, in the eighth circuit, hereby certify that the foregoing writing annexed to this certificate is a true, correct, and compared copy of the original remaining of record in my office.

In witness whereof, I have hereunto set my hand and the seal of said court, this 8th day of December in the year of our Lord one thousand eight hundred and eighty-seven and of the Independence of the United States of America the one hundred and twelfth.

Attest:

[SEAL.] RALPH L. GOODRICH,
Clerk.

350 (Indorsement on cover:) No. 313. The United States, plaintiff in error, *vs.* John T. Chidester and Logan H. Roots. E. Arkansas, C. C. U. S. Filed December 23, 1887.

Office Supreme Court U. S.
FILED.
APR 14 1891
JAMES. H. McKENNEY,
CLERK.

Supreme Court of the United States.

OCTOBER TERM, 1890.

THE UNITED STATES, PLAINTIFF IN error,
vs.
JOHN T. CHIDESTER AND LOGAN H. Roots.
} No. 313.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS.

WM. A. MAURY,
Assistant Attorney-General.

Supreme Court of the United States.

OCTOBER TERM, 1890.

THE UNITED STATES, PLAINTIFF IN error,
vs.
JOHN T. CHIDESTER AND LOGAN H. Roots.
} No. 313

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS.

BRIEF FOR THE PLAINTIFF IN ERROR.

This is an action brought by the United States against the defendants in error for money illegally and fraudulently demanded and received by the defendants in error in the name of a certain contract to carry the mail over the route hereinafter mentioned.

The action is brought under sections 3961 and 4057 of the Revised Statutes, which are as follows:

SEC. 3961. *No extra allowance shall be made for any increase of expedition* in carrying the mail *unless thereby the employment of additional stock and carriers is made necessary*, and in such case the additional compensation shall bear no greater proportion to the additional stock and carriers necessarily employed than the compensation in the original contract bears to the stock and carriers necessarily employed in its execution.

SEC. 4057. In all cases where money has been paid out of the funds of the Post-Office Department under the pretense that service has been per-

formed therefor, when, in fact, such service hasnot been performed, or as additional allowance for increased service actually rendered, when the additional allowance exceeds the sum which, according to law, might rightfully have been allowed therefor, and in all other cases where money of the Department has been paid to any person in consequence of fraudulent representations, or by mistake, collusion, or misconduct of any officer or other employé in the postal service, the Postmaster-General shall cause suit to be brought to recover such wrong or fraudulent payment or excess, with interest thereron.

On March 20, 1878, a contract was made between the United States and the defendant Chidester and his several sureties to transport the mail on route No. 31,454 from Fort Worth, Tex., via Bear Creek and a number of other places, to Yuma, Ariz., and back, seven times a week, by a schedule satisfactory to the Post-Office Department, at $134,000 per year, for and during the term beginning July 1, 1878, and ending June 30, 1882 (pp. 148–151).

The schedule of departures and arrivals accompanying the contract required that the mail should leave each terminal point daily at 6 o'clock a. m., and be carried through to the other point in 17 days (p. 151).

The complaint (pp. 2–6), after setting out the contract, averred, in the first count, that Chidester, on May 28, 1878, made the defendant Logan his attorney in fact to collect all moneys due the former under the contract by a duly executed power of attorney (p. 107).

It avers that on August 5, 1878, the Postmaster-General issued an order expediting the service on said route from August 15, 1878, by reducing the running time on said route from 17 to 13 days, for which expedition an additional compensation of $164,000 was allowed in supposed accordance with said section 3961.

It also avers that Chidester and Logan procured said order of expedition by means of a certain false statement under the oath of Chidester (p. 103) that to carry the mail on said route seven times a week, on a schedule of 17 days, required 92 carriers and 378 animals, and that to perform said service on a schedule of 13 days would require 180 carriers and 986 animals, whereas in truth and in fact the increase of carriers and animals necessary in performing said service on said expedited schedule did not exceed 55 carriers and 313 animals, and that the amount illegally and mistakenly paid the defendants was $174,020.41.

SECOND COUNT.

This count alleges that the last mentioned sum was received by the defendant Roots under the said power of attorney, and retained by him and not paid to the defendant Chidester.

THIRD COUNT.

This count avers that the defendant Roots knew that a large part of the money so paid him was paid in consequence of the said false statements and misrepresentations.

FOURTH COUNT.

This count avers that the money so received by Roots was received in his own right, he being the real principal and an agent only in name.

FIFTH COUNT.

This is substantially the common count for money had and received.

Judgment is prayed for $174,020.41, with interest at 6 per cent. per annum from July 26, 1882, and costs.

DEMURRER.

The defendants demurred to the complaint (p. 8).

The defendants also answered separately.

ANSWER OF CHIDESTER.

Chidester answered (pp. 8–10) that more men and animals were used than the number stated in his sworn statement.

That the order of August 5, 1878, granting expedition was not made on said statement, but that the Postmaster-General made the order on evidence independent of the statement, and on no representations of defendant.

That the statement was not false or intended to mislead.

That no fraudulent voucher was ever presented or money paid which he was not entitled to receive.

That there was no mistake of fact and no violation of section 3961, Revised Statutes, and "that the payments are NOT IN EXCESS OF THE RULE by said section prescribed."

ANSWER OF ROOTS.

Roots denies that there were any false and fraudulent representations, or that he presented any affidavit to the Postmaster-General, and says on information and belief

that more men and animals were used than the order for expedition allowed.

He denies that said order was based on Chidester's affidavit, or that the Postmaster-General was misled by it, and avers that said officer never saw said affidavit before the order was made, but that the order was based on information from persons and sources other than the defendants; avers that the Government paid no money under mistake, but that its officers were fully advised of all the facts.

Defendant denies that he was the agent of Chidester in form only, but states that after the order of expedition, to wit: On December 6, 1878, Chidester sublet to him all of the route from Fort Concho to Fort Yuma, at the rate of $275,000 per annum, and retained for himself the rest of the route lying between Fort Worth and Concho, receiving therefor $24,000 per annum, and that this subcontract "*was placed* in the *Post-Office Department*" and that "the officers and agents" well knew of the relations existing between defendants, and that after said date all payments for the route sublet were paid to defendant as subcontractor.

TRIAL.

The case came on for trial on January 10, 1887, before Judge Caldwell and a jury.

A considerable amount of testimony was offered by the Government and some by the defendants, but the same was taken from the jury by the judge, who said to them that "giving to all the evidence in the case the

fullest probative force which you would be warranted in doing, it would not authorize you, under the state of the pleadings and the law applicable to the case, to find a verdict for the plaintiff, and you will therefore return a verdict for the defendants" (p. 185).

BILL OF EXCEPTIONS.

To this ruling and various other rulings in the course of the trial the Government duly excepted (pp. 23–185).

VERDICT AND JUDGMENT.

The jury rendered a verdict for the defendants, as directed, and thereupon a judgment was entered accordingly (pp. 21, 22).

ASSIGNMENT OF ERROR.

It is conceived that the judgment is erroneous in this, that the court directed the jury that in no phase of the case as presented by the pleadings and the evidence could the plaintiff be entitled to recover.

ARGUMENT.

This is the case of *United States* v. *Barlow* (132 U. S., 271), over again, decided nearly 3 years after the case at bar was tried.

In *United States* v. *Barlow*, this court held that money paid to a mail contractor for the alleged use of carriers and animals never employed, but which he had declared necessary to operate an expedited schedule, could be re-

covered back both under section 4057 Revised Statutes, and the ordinary action of assumpsit, for money had and received.

In the case at bar the defendant Chidester, after he had begun to carry out his contract and with a full knowledge of the falsity of his statements, submitted to the Department a grossly exaggerated sworn representation as to the number of men and animals it would require to perform the contract on an expedited schedule of 13 days (p. 103).

It further appears by the testimony of John D. Adams, Chidester's partner (pp. 157–163), that the bid under which the contract was secured was ruinously low, so low indeed that the Postmaster-General tried to induce him to abandon it (p. 178), and it is perfectly evident from that testimony that it was submitted with the *express and fraudulent intention* of getting an order of expedition. As Adams, the witness, says (p. 161): "*Those were the days* of getting expedited service, *and hardly a contract was made that did not provide for that, particularly on big and important routes.*" In other words, those were the days when the scandalous star-route abuses took place.

Consequently we find Chidester moving in all directions to make the Department believe or appear to believe that there was a wide popular demand for an expedition of the service on his route.

We find him also keeping on hand a large amount of unnecessary stock for the express purpose, one of his employés tells us (Gilliss, pp. 23, 24), of having the benefit of it as a basis for the computation of increased pay for expedition.

But expedition was no sooner ordered, with an increase of pay calculated on the pretended necessity for an increase of carriers and animals, than Chidester began, *not to increase his stock and carriers*, but actually to get rid of a good deal of the stock and carriers he was using under the slow schedule.

The Government introduced evidence of the most conclusive character as to the above matters. (Gilliss, p. 23; Goff, p. 34; Gallaher, p. 39; Bobo, p. 43; Davis, p. 44; Harwood, p. 54; Bowman, p. 47; Jones, p. 48; Wagner, p. 49; Benton, p. 52; Wilson, p. 53; Harwood, p. 54; Ray, p. 57; Chadwell, p. 58, and others.)

This evidence the judge below told the jury amounted to nothing whatever, which was as much as to say that, never mind how many fictitious carriers and animals the defendants got pay for, they had a right to keep this money for which they had given the United States no consideration, and which, we must presume, was paid them under a mistake of fact.

All this testimony was swept away from the jury. In taking this course the learned judge below was probably influenced by the rulings on the circuit of Judge Hallett in the Barlow case, which was tried at Denver just a year before.

In support of the contention in the answers that Chidester's affidavit deceived nobody, the then Postmaster-General, Mr. Key, was examined (p. 178). But whether Mr. Key considered the affidavit or not, it is very clear from the testimony of one of the officers of the Department (pp. 101, 102, 103) that that affidavit must have

underlain the very *data* on which his action as Postmaster-General was based.

It is submitted that it seems to have been error to take the case from the jury, and that, for that reason, the judgment should be reversed.

WM. A. MAURY,
Assistant Attorney-General.